UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1991/17
10 January 1991

ENGLISH
Original: ENGLISH/FRENCH/
SPANISH

COMMISSION ON HUMAN RIGHTS
Forty-seventh session
Item 10 (a) of the provisional agenda

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT: TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Report of the Special Rapporteur, Mr. P. Kooijmans, pursuant to Commission on Human Rights resolution 1990/34

GE.91-10026/2805B

READEX
FICHE

CONTENTS

Chapter		Paragraphs	Page
	INTRODUCTION	1 - 4	1
I.	MANDATE AND METHODS OF WORK	5 - 18	2
II.	ACTIVITIES OF THE SPECIAL RAPPORTEUR	19 - 202	6
	A. Urgent action	19 - 23	6
	B. Correspondence with Governments	24 - 202	6
	Bahrain	24 - 26	6
	Bangladesh	27 - 28	8
	Brazil	29 - 31	9
	Burkina Faso	32 - 34	10
	Cameroon	35	11
	Chad	36	11
	Chile	37	11
	China	38 - 43	12
	Colombia	44 - 51	13
	Comoros	52	16
	Congo	53 - 54	16
	Cuba	55 - 56	17
	Ecuador	57 - 61	17
	Egypt	62 - 63	18
	El Salvador	64 - 66	20
	Equatorial Guinea	67	21
	Ethiopia	68 - 69	22
	Fiji	70	22
	Gabon	71	23
	Greece	72	23
	Guatemala	73	23
	Guinea	74	23
	Haiti	75 - 77	24
	India	78	24
	Indonesia	79 - 86	25
	Iran, Islamic Republic of	87	27
	Iraq	88 - 89	27
	Israel	90 - 97	27
	Kenya	98 - 102	31
	Kuwait	103 - 105	32
	Malaysia	106	33
	Mauritania	107 - 109	33
	Mexico	110 - 114	34
	Morocco	115	36
	Myanmar	116 - 125	36
	Nepal	126	39
	Papua New Guinea	127	40

CONTENTS (continued)

Chapter		Paragraphs	Page
II (cont'd)	Peru	128 - 133	41
	Philippines	134 - 138	42
	Republic of Korea	139 - 140	43
	Saudi Arabia	141 - 142	46
	Somalia	143 - 144	47
	South Africa	145 - 149	47
	Spain	150 - 153	48
	Sri Lanka	154	51
	Sudan	155 - 169	51
	Syrian Arab Republic	170 - 172	54
	Turkey	173 - 195	55
	Union of Soviet Socialist Republics	196 - 197	64
	Venezuela	198 - 200	64
	Yemen	201	66
	Zaire	202	66
III.	VISITS BY THE SPECIAL RAPPORTEUR	203 - 275	67
	A. Visit to the Philippines	203 - 274	67
	B. Follow-up to visits	275	87
IV.	CONCLUSIONS AND RECOMMENDATIONS	276 - 303	88

INTRODUCTION

1. At its forty-first session, the Commission on Human Rights adopted resolution 1985/33, by which it decided to appoint a special rapporteur to examine questions relevant to torture.

2. On 12 May 1985, the Chairman of the Commission appointed Mr. Peter Kooijmans (Netherlands) Special Rapporteur, who, in pursuance of Commission resolutions 1986/50, 1987/29, 1988/32 and 1989/33, submitted reports (E/CN.4/1986/15, E/CN.4/1987/13, E/CN.4/1988/17 and Add. 1 and E/CN.4/1989/15) to the Commission at its forty-second, forty-third, forty-fourth and forty-fifth sessions respectively.

3. At its forty-sixth session, the Commission had before it the fifth report of the Special Rapporteur (E/CN.4/1990/17 and Add. 1) and adopted resolution 1990/34 by which it decided to continue the mandate of the Special Rapporteur for another two years, while maintaining the annual reporting cycle in order to enable him to submit further conclusions and recommendations to the Commission.

4. In conformity with Commission resolution 1990/34 the Special Rapporteur hereby presents his sixth report to the Commission. Chapter I of the report deals with a certain number of aspects pertaining to the Special Rapporteur's mandate and method of work. Chapter II consists of the correspondence between the Special Rapporteur and Governments of States with regard to which detailed information alleging the practice of torture has been received. This chapter describes, in a summarized form, communications from the Special Rapporteur to Governments, including both urgent appeals and letters, and Governments' replies thereto. Chapter III consists of a report on the visit by the Special Rapporteur to the Philippines. Chapter IV contains conclusions and recommendations.

I. MANDATE AND METHODS OF WORK

5. The number of communications with information on alleged cases of torture or severe maltreatment received by the Special Rapporteur continued to increase, in comparison with previous years. The Special Rapporteur wishes to reiterate what he said in last year's report, viz. that this increase does not necessarily mean that torture itself is practised on a larger scale in the world. It may be explained by the fact that it is more widely realized that the international community has established mechanisms to monitor violations of basic human rights and also by the fact that a number of societies have become more transparent in the course of time.

6. The decision to transmit an allegation about human rights violations to a Government is always a difficult one, but especially so in the case of torture. Even in cases where there is a recorded pattern of torture in a country, the question of whether a specific person has been tortured can hardly ever be determined with absolute certainty without a careful medical examination. In this respect the mandate on torture is different from the mandates on enforced or involuntary disappearances and on summary or arbitrary executions. Torture is almost invariably practised in seclusion, and the only witnesses are the accomplices to the fact. Physical marks, if present, often disappear or heal or can be ascribed to other causes. To that extent torture can be said to be the most private of human rights violations.

7. The Special Rapporteur is well aware that, precisely because of this peculiarity, torture allegations may be made in order to tarnish a Government's reputation and that this may be quite effective in view of the fact that torture is generally and absolutely abhorred. When the Special Rapporteur's report was under discussion in the Commission on Human Rights at its 1990 session, some Government representatives accused non-governmental organizations of making unfounded allegations of torture for the purposes of political confrontation. The Special Rapporteur was invited to subject the information he received to a thorough screening process lest he would lose his credibility.

8. Whenever the Special Rapporteur transmits allegations to a Government, he does so on the basis of the following considerations: the alleged case usually should correspond to the general pattern of the human rights situation of the country concerned as recorded in documentation provided by governmental and non-governmental institutions. If this is not the case, the allegation will only be transmitted if it is sufficiently detailed; in such cases the Special Rapporteur feels that he is entitled to bring it to the Government's attention in order to enable it to investigate the matter. As for the reliability of the source, which is normally a non-governmental organization, it should be borne in mind that the possibility that the alleged facts have actually occurred must always be corroborated by other, inevitably more general, information.

9. In this context it deserves mention that torture is often applied against persons who are seen by the authorities as political opponents. However, the fact that the allegations are made by politically opposed groups does not necessarily imply that they are made merely for political purposes.

10. The Special Rapporteur himself is not in a position to evaluate the veracity of the allegation. This can only be done through an investigation on the spot by the national authorities. Only they are in a position to verify or disprove the allegation by informing the Special Rapporteur about the way they have carried out this investigation and about its outcome. It is the Special Rapporteur's opinion that a reply should contain information about the authority responsible for the investigation, the persons questioned, the results of the medical examination and the identity of the person who performed it, the decision on a complaint which was eventually filed and the grounds for this decision, as well as any other relevant material. A flat denial, or a reference to the prohibition of torture under national law or to the fact that the individual has not submitted any complaint or has been released cannot be seen as satisfactory replies. Finally, if the authorities are of the opinion that allegations are made for the sole purpose of smearing the Government, they can always invite the Special Rapporteur to carry out an investigation himself.

11. The number of requests for urgent appeals is steadily increasing. The Special Rapporteur feels that the possibility to send urgent appeals is a unique feature of the Commission's thematic mandates. Such appeals are purely humanitarian in character. They refer to situations where people are actually under detention and where fear is expressed that they are or may be subjected to torture. Such fear may be based on various grounds. Sometimes relatives who have visited them, or other prison inmates, have seen that their physical condition is extremely bad or that their bodies bear marks of torture. In other cases it is reported that the arrested persons are held incommunicado and, since incommunicado detention is highly conducive to torture, fear that torture may be practised is comprehensible. In all such cases the Special Rapporteur feels that the humanitarian character of his mandate obliges him to make such an urgent appeal. These appeals, therefore, should certainly not be seen as accusations. In some cases the Government itself may not be aware of the actual situation and, only after receiving the appeal, may be in a position to look into the matter and instruct the authorities concerned to respect the individual's right to physical and mental integrity. Since torture is absolutely prohibited and cannot be justified under any circumstances, each Government is obliged to take all necessary steps to prevent its occurrence. The urgent appeal procedure is an excellent instrument to serve that purpose.

12. Resolution 1990/34 of the Commission appealed to Governments to co-operate with and assist the Special Rapporteur in the performance of his tasks and to furnish all information requested. During 1990 a higher proportion of Governments which received letters and/or urgent appeals have heeded that request by providing the Special Rapporteur with information, although this information cannot always be deemed satisfactory. The Special Rapporteur wishes to express his appreciation to Governments which provided him with information and co-operated willingly with him. He feels that these Governments in doing so comply with the obligation under Article 56 of the Charter of the United Nations "to take joint and separate action in co-operation with the Organization for the achievement of the purposes set forth in Article 55", viz. "the promotion of universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion". Since the mandate of the

Special Rapporteur has been established by the United Nations Commission on Human Rights and has been confirmed by the Economic and Social Council, all Member States must be deemed to have pledged themselves under Article 56 of the Charter to co-operate with him.

13. Upon the invitation from the Government of the Philippines the Special Rapporteur visited the country from 1 to 10 October 1990. The account of that visit appears in the present report in section A, Chapter III. The Special Rapporteur feels that such visits provide him with highly useful information about the human rights situation in a country in general, and the occurrence of torture in particular, thereby enabling him to make recommendations to prevent torture, while taking into account the specific legal and administrative context of that country. Although the Commission, by its resolution 1990/34, encouraged Governments to give serious consideration to inviting the Special Rapporteur to visit their country so as to enable him to fulfil his mandate even more effectively, he has so far not received any invitation for 1991. From time to time he has consultations in Geneva with permanent representatives of Member States or Observer States to indicate that he would welcome an invitation from their Government. He does so in particular when a Government upon its taking office, has strongly committed itself to improve respect for human rights and to restore the rule of law or when he receives information that the situation in a particular country with regard to torture is deteriorating. He feels that by visiting such a country he can help the Government concerned in its efforts to eradicate torture. Another reason for visiting a country may be that the Government has established new mechanisms, such as an independent human rights commission. It might be useful for the Special Rapporteur to inform himself about the way in which such a mechanism functions in order to see whether it can also be used in different contexts. In some cases such consultations have led to an invitation to visit the country, whereas in other cases the Government made clear that a visit would not be appreciated or was not deemed useful. The Special Rapporteur feels that in the latter cases the function of a visit is misunderstood. In one recent case the Special Rapporteur has opened consultations with the permanent representative of a Member State after he received information about an increase of the practice of torture in that State. The Government concerned informed him that corrective mechanisms within the country functioned well and that the courts usually rejected evidence obtained under duress and acquitted the accused. The Government therefore saw no reason to invite the Special Rapporteur. The Special Rapporteur had been well aware that the court system functioned well and had explicitly said so; the purpose of his intended visit was the prevention of practices of torture, the existence of which was implicitly admitted, and which continued in spite of the court decisions and this was obviously, and regrettably, misunderstood.

14. As the Special Rapporteur has said in previous reports, an invitation extended to him by a Government should not be seen as an admission that torture is wilfully condoned in the country concerned. Nobody knows better than the Special Rapporteur how difficult it is to eradicate torture and that, once its occurrence has decreased, it may easily re-appear under certain conditions, in particular if there is an armed insurgency or a virulent opposition. The outlawry of torture and well-functioning corrective mechanisms in such circumstances are obviously insufficient and supportive preventive measures are called for. The Special Rapporteur strongly feels that he would perform his function in a half-hearted way if he confined

himself to transmitting allegations to Governments without offering advice to them on how to fight effectively the phenomenon of torture. All Governments have committed themselves to this effort and the United Nations mechanisms are specifically designed to support them. In this context the Special Rapporteur also wishes to refer to resolution 1988/54 of the Commission, in which a direct link was laid between the work of the Commission's Special Rapporteurs and working groups and the advisory services programme. In its operative paragraph 9 the Commission requested its special rapporteurs "to inform Governments, whenever appropriate, of the possibility of availing themselves of the services provided for under the programme of advisory services and to include in their recommendations, whenever appropriate, proposals for specific projects to be realized under the programme of advisory services."

15. Last year's report also had a section entitled "Follow-up to visits". It contained the reactions of the Governments of the Republic of Korea and of Turkey to the recommendations made by the Special Rapporteur in his reports on the visits to these countries. The Special Rapporteur expressed his deep appreciation for these reactions since he felt that through this form of co-operation with individual Governments the prevention of torture is well served. The Special Rapporteur regrets that no such reaction has so far been received from the Governments of Peru (visited in April 1988), Guatemala and Honduras (both visited in September 1989). He wishes to express his appreciation to the Government of Zaire which provided him with information on measures taken following his visit to the country in January 1990. This information appears in the present report in section B, chapter III.

16. Some Governments ve provided the Special Rapporteur with general information about the human rights situation in their country, both from governmental and non-governmental sources. The Special Rapporteur wishes to thank the Governments of Colombia, El Salvador, Israel, Mexico, South Africa and Turkey for such information.

17. The Special Rapporteur continued, on several occasions, to have informal consultations with the Chairman of the Committee against Torture. These consultations have contributed to a better understanding of the scope of the mandates of the Committee and of the Special Rapporteur and to a shared strategy to avoid overlapping in the activities of the United Nations in combating torture, as required by resolution 1990/34. The Special Rapporteur trusts that working methods have been developed which complement each other and will make both mechanisms more effective.

18. The Special Rapporteur had, together with the Chairman of the Committee against Torture, a meeting on 23 January 1990 in Geneva with the newly elected European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. The meeting was organized after the Committee had expressed the wish to be informed about the way in which the various United Nations mechanisms dealing with torture functioned. The meeting was considered fruitful by all participants and has led to continuing contacts.

II. ACTIVITIES OF THE SPECIAL RAPPORTEUR

A. Urgent action

19. During the period covered by the present report, the Special Rapporteur continued to receive increasing numbers of requests for urgent action or information containing elements which, he deemed, justified such urgent action. These requests principally concerned persons who were allegedly being subjected to torture, or regarding whom fears were expressed that they may be subjected to torture, usually while being held incommunicado in police or army custody, or during interrogation. The Special Rapporteur brought 70 of these cases to the immediate attention of the respective Governments and appealed to them, on a purely humanitarian basis, to ensure that the right to physical and mental integrity of those concerned was protected and that the treatment meted out to them while in detention was humane.

20. Appeals were sent to the following Governments: Burkina Faso, Chad, China, Colombia, Comoros, Congo, Cuba, Ecuador, Egypt, El Salvador, Equatorial Guinea, Ethiopia, Guatemala, Haiti, Indonesia, Iraq, Islamic Republic of Iran, Israel, Kenya, Kuwait, Malaysia, Mauritania, Myanmar, Peru, Somalia, South Africa, Sri Lanka, Sudan, Syrian Arab Republic, Turkey and Zaire.

21. The following Governments replied to the appeals for urgent action addressed to them by the Special Rapporteur (including appeals sent previously and reflected in previous reports of the Special Rapporteur): Burkina Faso, China, Colombia, Congo, Cuba, Ecuador, Guinea, Haiti, Indonesia, Iraq, Kenya, Mauritania, Myanmar, Syrian Arab Republic and Turkey.

22. It may be noted that, in a small number of cases, the Special Rapporteur was informed by the source of information that the person, or persons, regarding whom a request for urgent action was made had already been released at the time the appeal on their behalf was sent to the Government. In such cases the appeals may be considered as null and void and will not be mentioned in the present report.

23. Further details on the contents of the appeals and of Government replies thereto received by 7 December 1990 are given in section B below, entitled "Correspondence with Governments".

B. Correspondence with Governments

Bahrain

24. On 28 December 1989 the Government of Bahrain sent the following information to the Special Rapporteur in reply to his letter of 21 April 1989 (E/CN.4/1990/17, para. 27): "Mr. Ebrahim Bahman Dashti was involved in anti-Government activities calling for violence and use of arms, in collaboration with a banned extremist group linked to foreign quarters. Furthermore, he exercised his right to appoint a lawyer of his choice to defend him in his trial which was not only open but also in accordance with the legal norms and procedure. His allegation about torture being perpetrated against him was flatly refuted after a thorough medical check-up and investigation."

25. On 6 June 1990 the Special Rapporteur addressed a letter to the Government of Bahrain transmitting information alleging that in 1988 and 1989 the practice of arbitrary arrests, incommunicado detention without formal charges, and torture for the purpose of extracting confessions continued to occur. Victims principally included anti-Government supporters, members of banned political groups, such as the Islamic Front for the Liberation of Bahrain (IFLB) and the Bahrain National Liberation Front (BNLF), and members of Christian minorities. The following cases of alleged torture were reported:

(a) Sheikh Saeed Alsalatneh, of the Alnaim district, was arrested in mid-May 1989. He was detained for one month, and was allegedly subjected to physical torture, as a result of which he suffered fractures in his legs. He was later released;

(b) Salah Abdulla Habil Alkhawaja, 26 years old, of Almanama, was arrested on 2 November 1988 and allegedly subjected to torture in the form of electric shocks as of 26 December 1988 following his extradition from Saudi Arabia;

(c) Nabil Baker Ibrahim, a 23-year-old engineer from Almanama, Ahmad Husain Mirza, a 22 year old teacher from Almanama, and Khaled Abdulrasul Mohamad, a 24 year old teacher of Umulhimam, were allegedly subjected to various types of torture since their detention in December 1987. Ahmad Mirza and Khaled Mohamad were allegedly pulled by a jeep on rocky terrain in the Al Sekheir district, as a result of which they suffered severe injuries;

(d) Mr. Ahmed Almakabi, aged 30, was arrested by the Special Intelligence Service (S.I.S.) and was reportedly tortured;

(e) Abbas Ahmad Yusef of Rasrumman, a student of Engineering in Riyadh University, was arrested in connection with activity for the Islamic Front for the Liberation of Bahrain. He was allegedly subjected to torture and kept in a deteriorating condition for four years.

26. On 6 August 1990 the Government of Bahrain informed the Special Rapporteur that "The security services in Bahrain do not practice torture. The persons named were not subjected to any form of physical or mental torture and were not detained on political grounds. They were arrested and referred to the examining magistrate for questioning. Those who were indicted were sent for trial by the courts and those against whom no charges were preferred were released". With regard to the persons mentioned in the Special Rapporteur's letter the following information was given: "Said Sultan Mansour al-Salatneh appeared before the examining magistrate on 14 June 1989. No charges were preferred against him and he was released on 1 July 1989. Salah Abdullah Habil al-Khawaja was tried in court and sentenced to a term of seven years' imprisonment. Ahmad Hussein Mirza, Nabi Baqir Ibrahim and Khalid Abdur-Rasoul Muhammad al-Amir were tried in court and sentenced to terms of imprisonment, on 26 October 1989. The names Ahmed al-Makabi and Abbas Ahmad Yusef were not found in the records of the Ministry of the Interior".

Bangladesh

Letters and Government replies

27. On 6 June 1990 the Special Rapporteur addressed a letter to the Government of Bangladesh transmitting information alleging that several cases of deaths in custody, allegedly as a result of torture, occurred in the country in recent months. The following cases were reported:

(a) Shahidul Islam, arrested on 31 May 1989 at his home in Bara Bail Danga village, by the Kotwali Police, Jessore District, on suspicion of being in possession of weapons. He was allegedly tortured on two occasions at the Kotwali District Police Station. On 2 June 1989 he died in hospital. A post-mortem report said that the death was caused by "trauma in different parts of the body";

(b) Ofazuddin, from Laduakunda village, Dhamrai District, was arrested in late June 1989 and charged with murder. After being interrogated and allegedly tortured he became unconscious and was admitted to hospital. He died a month later. A doctor at Dhamrai Hospital stated that when Ofazuddin was brought in he was unconscious and had difficulty in breathing, and that there were wounds on his head, arms and legs. A complaint was reportedly filed and a judicial inquiry was held on 27 September 1989, but the outcome was not reported;

(c) Khoka Mia, from Mukuddapur village, Kaharol Sub-Division, was arrested in June 1989 along with a teacher named Animesh Roy and others on unspecified charges and taken to Kaharol Police Station, where they were allegedly beaten up and tortured. Khoka Mia reportedly died as a result of the torture and Animesh Roy suffered from a broken leg. Eight policemen were charged in connection with that case but it was not known whether the trial had taken place;

(d) Wazed Ali, a rickshaw puller who had been detained on charges of banditry, died on 7 February 1990 at the Kotwali Police Station, Jessore District, allegedly as a result of beatings and torture.

28. On 9 July 1990 the Government of Bangladesh replied, stating that the allegations were "misconceived, distorted, misleading" and did "not relate to the facts". The Government provided further details about the four cases transmitted to it. With regard to Shahidul Islam it was stated that during his detention he told the law-enforcing agencies that he had been suffering from tuberculosis for some time and accordingly, he was sent to the hospital in Jessore for medical treatment. He died in hospital on 2 June 1989. The post-mortem said "there was no injury or trauma on his body", and the report was submitted to the judicial Magistrate who confirmed the veracity of the post-mortem report. "Though there was no evidence of misbehaviour on the part of the police officer... he was, however, transferred from the Kotwali Police Station by the Police administration." As regards Mr. Ofazuddin, "during the time of his arrest, he tried to flee to escape from the arrest, but the angry public caught him. Unfortunately, due to the emotive nature of the situation, a commotion took place and this resulted in violence and Ofazuddin was injured". In spite of medical treatment he died on 7 August 1989.
Mr. Khoka Mia was arrested on 6 June 1989 for his alleged involvement in a robbery. "Regrettably, the police officials were rather rough and manhandled

the accused (persons) including Khoka Mia. Since Khoka Mia was suffering from high blood pressure he was not feeling well" and was sent to a hospital for treatment. He died on 9 June 1990. Consequently five police officers and eight police officials were immediately suspended from service and a judicial inquiry has been set up. The case is still under investigation. Wazed Ali was arrested on charges of robbery and during the time of his arrest the public got very emotional and violence took place which had caused injury to him. He later died in hospital.

Brazil

Letters and Government replies

29. On 6 June 1990 the Special Rapporteur addressed a letter to the Government of Brazil transmitting information alleging that the situation in many prisons throughout the country continued to be a cause for concern. Police and prison personnel brutality against detainees was said to be widespread. Many cases of severe beatings were reported. Conditions prevailing in the prisons, and in particular sanitary conditions, were said to be extremely poor. The following prisons and detention places were mentioned as examples: Agua Santa, Talavera Bruce, Leblon, Evaristo de Morais, Casa de Detencão, Ataliba Nogueira, Taubate, and Franco da Rocha; the São Bernardo gaol in Campinas, the detention centre Penitenciaria de Americano in the Santa Isabel do Para Municipality, State of Para; the Campo Grande Maximum Security Centre in Mato Grosso do Sul, and the lock-up in the Departamento Estadual de Investigacao Criminal (DEIC). In addition to the aforementioned, the following cases of alleged torture were reported to have occurred in recent months:

(a) Several persons, including Manuel Nobrega da Silva, Francisco Silvestre Bezerra, Elizete Bezerra da Silva and Eurides Bezerra da Silva, were allegedly tortured on 6 October 1989 by 12 military police from the State capital Rio Branco in connection with a search operation for two fugitives in the Manuel Urbano region of the Acre State in north-western Brazil;

(b) Reginaldo Rodrigues Pereira was reportedly taken out of detention at Campo Grande Prison on 4 November 1989 and subjected to electric shocks at the local police station.

30. On 27 November 1990 the Special Rapporteur addressed a letter to the Government of Brazil transmitting several cases of alleged torture and ill-treatment which had been brought to his attention. Most of these cases occurred in Campo Grande, State of Mato Grosso do Sul, and the agents said to be responsible were policemen, including Federal Police agents and military police. The cases of the following individuals were transmitted to the Government: Jocimar Borjes da Silva, arrested on 20 June 1990; Alex Ferreira; Alfredo Nogueira da Silva Dilho, arrested on 17 May 1990; Adilson Rodrigues Lemes, José dos Santos Oliveira, Emerson Gabriel Santos and Marcelo Machado Nascimento, all arrested in March 1990; Paulo Sebastião da Silva and Josias Chaustz da Silva, both arrested on 15 May 1990; Manoel da Silveira Araujo arrested on 4 May 1990; Adelino Souto Maior, arrested on 5 June 1990; Ariolino de Assis Neto, arrested on 24 June 1990; Eribaldo de Araujo Menezes and Paulo Roberto dos Santos, both prisoners, allegedly tortured on 4 April 1990; and José Carlos Luiz da Silva, arrested on 10 September 1990.

beaten during interrogation. Two USP lecturers were reportedly arrested on 8 October 1989 by plain clothes army officers. They were allegedly beaten while in detention and as a result suffered serious head injuries. Their request to be taken to hospital was allegedly denied.

Gabon

Letters

71. On 15 October 1990, the Special Rapporteur sent a letter to the Government of Gabon transmitting information that Mr. Auguste Ambourouet and Mr. Guy Nang Bekale, both members of the Gabonese Progress Party (PGP), as well as six other members of opposition parties, were arrested in early June 1990 in Port Gentil. Although the six opponents were released before late June 1990, Mr. Ambourouet and Mr. Bekale were reportedly still being held incommunicado, without charges, in Libreville and they had allegedly been subjected to ill-treatment.

Greece

Government replies

72. On 7 February 1990 the Government of Greece addressed a letter to the Special Rapporteur providing further details regarding a case transmitted to it on 28 July 1988 and its letter of reply of 15 February 1989 (E/CN.4/1989/15, para. 38 and E/CN.4/1990/17, para. 66, respectively). The Greek Government informed the Special Rapporteur that the administrative inquiry concerning the Katsikoyannis case had been concluded and that no findings of guilt against policemen were established.

Guatemala

Urgent messages

73. On 27 November 1990, the Special Rapporteur sent an urgent message to the Government of Guatemala concerning Mr. Luis Arturo Arévalo, a Guatemalan national who was allegedly arrested on 3 or 4 November 1990 in Belize by the Special Branch of that country's police force after having been accused of belonging to a Guatemalan armed opposition group. Mr. Arévalo was reportedly tortured in Belize and, around 10 or 11 November, handed over to the Guatemalan military forces (Kaibiles) in Melchor de Mengos, Petén Department. Concern has been expressed that he might be subjected to torture and that his life ight be threatened.

Guinea

Urgent appeals and Government replies

74. On 12 January 1990, the Guinean Government sent the Special Rapporteur the following information in reply to his urgent appeal of 11 December 1989 (E/CN.4/1990/17, para. 73): the first four names referred to in the appeal are not known to the services of the Guinean Ministry of National Defence. The last three persons, Togba Traore, Nanfory Camara and Mohamed Ali Bangoura, were taken in for questioning and released. The Guinean Government assured the Special Rapporteur that there was no need for concern about these three persons, since the Government respects human rights.

31. On 7 December 1990 the Government of Brazil provided the Special Rapporteur with information on the above-mentioned cases, as well as on one of the cases transmitted to it by letter dated 6 June 1990, i.e. that of Reginaldo Rodrigues Pereira. It was reported that an inquiry had been opened within the "Council for the Defence of the Rights of the Human Person" - CDDPH, which is the Federal Government's body in charge of promoting and protecting human rights in Brazil. In reply to a request for information from the CDDPH the Secretary of Public Security of the State of Mato Grosso do Sul reported on 21 November 1989 that it had asked the competent body at the State Police to investigate the facts. Similar inquiries were reportedly opened into the cases of Jocimar Borges da Silva, Alfredo Nogueira da Silva Filho, Adilson Rodriguez Lemes, Jose dos Santos Oliveira, Emerson Gabriel Santos, Marcelo Machado Nascimento, Paulo Sebastião da Silva, Josias Chaustz da Silva, Adelino Souto Maior and Ariolino de Assis Neto. In all the above cases the competent authorities were asked to provide information on the torture allegations. In some of the cases it was affirmed that the competent authorities had already taken measures to investigate the allegations. It was further reported that, as regards all the remaining cases transmitted by the Special Rapporteur, the CDDPH was in the process of establishing inquiries into these cases.

Burkina Faso

Urgent appeals and Government replies

32. On 21 June 1990, the Special Rapporteur sent an urgent appeal to the Government of Burkina Faso transmitting information concerning several leaders and members of student organizations, including Seni Konanda, Sie Souleymane Coulibaly, a medical student named Dabo, Jean-Clement Bagre and 12 other students whose names have not been made available. The first three were arrested on 18 May 1990 and the fourth on 30 May 1990. All were allegedly held incommunicado following student protests. It was reported that persons arrested during the preceding year for political reasons and held incommunicado were tortured or subjected to ill-treatment.

33. On 11 July 1990, the Government of Burkina Faso informed the Special Rapporteur that no students were in prison or being held incommunicado following the student strike.

34. On 9 November 1990, the Special Rapporteur sent an urgent appeal to the Government of Burkina Faso referring to his telegram of 21 June 1990 and to the Government's reply of 11 July 1990 and adding further information he had received, namely, that the medical student named Dabo (his first name is Boukary) allegedly died in detention as a result of ill-treatment. It was also reported that Guillaume Sessouma, a lecturer at the University of Ouagadougou, died as a result of the torture to which he was subjected in detention one week after his arrest in late December 1989. According to the same source, the above-mentioned students and other students arrested after the student demonstrations of May 1990 were allegedly still being held incommunicado.

Cameroon

Letters

35. On 6 June 1990, the Special Rapporteur addressed a letter to the Government of Cameroon transmitting information that two prisoners at Nkondengui Prison, Yaoundé, former Captain Madam Dogo Aboubakar and former Warrant Officer Pagoré, allegedly died in December 1989 after having been subjected to torture and ill-treatment and deprived of medical care. According to the same source, these two persons and about 30 other prisoners were tortured and severely beaten when their cells were searched on 24 November 1989 and prohibited items, such as radios and copies of the Koran, were allegedly discovered. All these persons were reportedly deprived of medical care after being beaten.

Chad

Urgent appeals

36. On 24 October 1990, the Special Rapporteur sent an urgent appeal to the Government of Chad transmitting information concerning the following persons: Lieutenant Laoukein Barde, Souleymane Kabo (aged 16), Youssouf Kabo, Joseph Madjimbang, Zakaria Moursal, Ahmed Nahor, Gali Gatta N'Gothe, Edouard Sailly and Hissein Seydou Thaim. These persons, who were arrested in N'Djamena in the past five months, were allegedly held incommunicado, without charges, in an unidentified place of detention in N'Djamena and fears were expressed that they might be subjected to torture and ill-treatment.

Chile

Government letters and replies

37. On 15 February 1990, the Government of Chile sent the Special Rapporteur a note replying to two letters he sent on 17 April 1989 and 2 October 1989 (see document E/CN.4/1990/17, paras. 39 and 40, respectively). Together with the note, the Ministry of Foreign Affairs of Chile sent a document containing information on 14 of the persons referred to in the two letters sent by the Special Rapporteur, including additional details on their detention (date, personnel responsible, places of detention and reasons for detention) and their physical condition. The document contains the following information:

> "Carabineros of Chile reports that, with regard to the cases of Iván Escurra Campos and Sissi Guzmán Vargas, José Luis Donoso Cáceres, Marco Antonio Sepúlveda Senoceain and Sandra Verónica Ranz Velásquez, the necessary information was requested from the courts with jurisdiction in the proceedings.
>
> An analysis of the statements made by the above-mentioned detainees and the confidential files provided by the various zones shows that the detainees were not subjected to physical or psychological ill-treatment by Carabineros who took part in the arrests.

confirmed those findings but did not order the State to pay compensation and failed to take steps to prosecute the guilty police officers. The court left it to the accused persons "to move the appropriate civil or criminal courts for suitable action including compensation and criminal prosecution". Another suspect, Jaggu Lakishman Chavan, who also belongs to the Pardhi tribe, was arrested in Bombay on 14 February 1989 and died on 3 March 1989 in the Panvel municipal hospital, while still in police custody, allegedly as a result of injuries received under torture. According to the police Chavan died of an "unidentified illness". But the 19 men arrested in the same case claimed that he died as a result of severe police beatings, and some said they were present when he was being tortured. But two doctors who carried out a post-mortem examination said they did not find injuries on the body, although one of them said he found the right hand to be bent. It was further reported that Kuljit Singh Dhatt, from the village of Ambala Jattan, Hoshiapur District, was arrested (on an unspecified date, probably in the second half of 1989), from the home of Reeve Gurmail Singh in the village of Garrhi. It was alleged that Kuljit Singh was taken to the Tanda Police Station where he was tortured with an electromagnetic device known as garari. The device was allegedly applied to his genitals by a Police Superintendent whose name was transmitted to the Government, while other police constables were holding him. Kuljit Singh reportedly died of a heart failure, allegedly as a result of the prolonged torture to which he was subjected.

Indonesia

Urgent appeals and Government replies

79. On 2 May 1990 the Special Rapporteur sent an urgent appeal to the Government of Indonesia concerning three East Timorese students: Fernad Trindade, aged 17, Mario Trindade, aged 22, and Felizberto Mascarenhas, aged 23, who were reportedly arrested by military police on 26 April 1990 in Denpasar, Bali, and were allegedly subjected to torture.

80. On 1 June 1990 the Indonesian Government provided more details on the circumstances of the arrest of the three aforementioned students, which reportedly followed a fight with a West Timorese student. The three students were released on 1 May 1990. It was affirmed that they had not been subjected to torture or ill-treatment at any stage of the proceedings.

81. On 16 October 1990 the Special Rapporteur sent an urgent appeal to the Government of Indonesia concerning Aleixo Laga, aged 22, a pupil at Sao Jose Externato School in Dili, East Timor, who was arrested in that town on 11 September 1990. It was alleged that on the day of his arrest he was taken to the Dili Police Office and kept in a water tank, and that since then he has been subjected almost daily to torture. It was reported that his family had recently been given permission to visit him and that they found him weak from lack of food, and his face swollen and covered with cuts and bruises. Fears were expressed that he may not be able to survive if torture and maltreatment did not stop.

82. On 20 November 1990 the Government of Indonesia informed the Special Rapporteur that Aleixo Laga was released after being questioned, on condition that he reported regularly to the authorities, but he had never done so and since his release his whereabouts had not been known. During the proceedings

On the basis of the foregoing, it may be concluded that the complaints to the Special Rapporteur that persons arrested by Carabineros were allegedly subjected to torture are unfounded and untrue and the information compiled contains no sound arguments to back up the allegations by the persons concerned. There are also documents written and signed by these persons stating that they have no charges to bring against Carabineros and its members.

The Chilean Criminal Investigation Department provided information on the cases of Cristobal Modesto Carrasco Oñate, Mirko Zapkovic Orrego and Víctor Hugo Pávez Ramírez, Luis Carlos Godoy Cortés, Oscar Patricio Molina Ossandon, Héctor Alfredo Zúñiga Suárez and Luis Hernán Bravo Ordóñez.

In all these cases, the Chilean Criminal Investigation Department acted in accordance with orders by the competent courts and on the basis of the powers entrusted to it by the Carabineros Organization Act; its procedures are thus fully in keeping with the law. In addition, prisoners taken to Carabineros premises are given a medical examination to determine the state of their health. Their detention is recorded in the Public Register of Prisoners, which shows, inter alia, their identity and the reason for, and order authorizing, their detention. When they come back and are placed at the disposal of the courts, they are given another medical examination."

China

Urgent appeals and Government replies

38. On 17 January 1990 the Government of China provided the Special Rapporteur with a reply to an urgent appeal dated 29 November 1989 concerning Tseten Norgye (see document E/CN.4/1990/17, para. 44). It stated that, after receiving the communication from the Special Rapporteur, the department concerned in China conducted an investigation and found that no person by the name of Tseten Norgye was among the prisoners.

39. On 18 May 1990 the Special Rapporteur sent an urgent appeal to the Government of China concerning further information he received with regard to Tseten Norgye. According to that information the Chinese Ambassador to the United States of America addressed a letter to United States Senator Patrick Leahy, informing him that Tseten Norgye had been detained on an unspecified date in 1989 for investigation as a major suspect and that he was formally charged on 10 November 1989 and was at present awaiting trial. It was further reported on 28 March 1990 that Tseten Norgye was being held in solitary confinement in the military prison below Chokpori, and that he was now totally blind, allegedly as a result of beatings during interrogation.

40. On 9 July 1990 the Government of China informed the Special Rapporteur that "owing to different translation versions of Tibetan names, Tseten Norgye was translated into Danzeng Nuojie. Besides, according to the communication transmitted by the Rapporteur, he was 45 years old and was from Lhasa. Since this was at variance with the fact, attempt to locate him failed. Through the efforts of various quarters, it has been verified that Tseten Norgye is Cidan Luojie, 48 years of age, from Xigaze region of the Tibetan Autonomous Region.

He was arrested in November 1989 according to law for his activities aimed at splitting China and subverting the Government. The case is now under investigation. According to the cable, it has been claimed that Cidan Luojie was severely beaten and became totally blind during detention. It has been verified through investigation by the Chinese department concerned that such accusation did not conform to the reality. In fact during his detention, Cidan Luojie has been shown a humanitarian treatment according to law by the Chinese public security and judiciary departments. He has never been beaten and has not become blind. He is actually in good health now."

41. On 13 June 1990, the Special Rapporteur sent an urgent appeal to the Government of China concerning Sichoe Dorje, aged 40, from Lhasa, who was reportedly arrested at his home on 1 March 1990 by eight members of the public security bureau and was currently detained at the Sangyiip prison in Lhasa. It was alleged that detainees accused of supporting the Tibetan separatist movement have been ill-treated or tortured and fears were therefore expressed that Sichoe Dorje may be in danger of torture while being interrogated for his alleged pro-independence activities.

42. On 6 July 1990, the Special Rapporteur sent an urgent appeal to the Government of China concerning Mrs. Xiao Xuehui, aged 35, a philosophy lecturer who was reportedly arrested in 1989 and is currently held in Chengdu, Sichuan Province. It was alleged that she was being detained with common criminal offenders in Xindu Prison, where conditions were said to be very harsh. It was further alleged that she had been beaten while in detention and that she was at present seriously ill, suffering from liver and kidney troubles.

43. On 10 September 1990 the Government of China addressed to the Special Rapporteur the following information: "It has been learned that the information you presented in the cable is not accurate for there is no Xindu Prison in Chengdu, Sichuan, but only a Xinduchiao Prison in Sichuan Province. Of all the female prisoners in the Province, there is no one by the name of Xiao Xuehui. In China, all cases are tried fairly in accordance with the relevant laws and regulations. During their detention, the prisoners are treated in a humanitarian manner and when falling ill, they are promptly provided with medical treatment."

Colombia

Urgent messages and Government replies

44. On 6 December 1990, the Government of Colombia provided the Special Rapporteur with information on the case of Mr. Orlando Agredo Jiménez (see document E/CN.4/1990/17, para. 45) and additional information on the cases of Rodolfo Hernández and Efrain Gómez (see the same document, paras. 47 and 48). With regard to Mr. Agredo Jiménez, it was reported that officials from the Military Prosecutor's Office visited the military facilities in the area where the incidents allegedly took place and compared the information given by a witness who was travelling with Mr. Agredo Jiménez on the day of his alleged arrest with that obtained from the brother of the alleged victim in the complaint he filed. The two versions differed enormously as far as Orlando Agredo Jiménez's physical identity is concerned. In addition, the Military Prosecutor's Office conducted inquiries in other military and police

units without finding any testimony or documentary evidence concerning the arrest and torture of Mr. Agredo Jiménez. The Prosecutor's Office therefore did not institute a formal administrative investigation, since there was no proof of the facts complained of. With regard of the cases of Rodolfo Hernández and Efrain Gómez, it was reported that officials of the Administrative Security Department (DAS) visited Mr. Gómez in the Bucaramanga Model Prison and asked him and Mr. Rodolfo Hernández whether they had been subjected to ill-treatment; the two prisoners replied that they had not been ill treated by the soldiers while they were in the BR-5 facilities. Subsequently, when efforts were made to obtain a written record of their statement, they refused to give it to DAS.

45. On 20 March 1990, the Special Rapporteur sent an urgent message to the Government of Colombia concerning the following trade union members: Héctor Castro, Toribio Bohorquez, Simón Duque, Henry Hurtado Guerrero, Luis Serna Carvajal, Jorge Eliecer Baylon Hernández, Maria Elizabeth Suarez, Luis Orlando Salazar Gallego, Eli de Jesús Quebrada Trejos, Héctor Eduardo Castro Hernández, Harold Heberto Ruiz Moreno and James Lozano Días. According to the information received, these persons were allegedly being held in the premises of the Administrative Security Department (DAS) in Calí, where they had been subjected to torture or ill-treatment. Two other trade union members, William Arley Escobar and Clotario Adrada, were allegedly being held at the Judicial Police (SIJIN) Station in Calí.

46. On 24 April 1990, the Government of Colombia informed the Special Rapporteur that, on 2 March 1990, the Calí Regional Prosecutor's Office reported that it hired an investigator, who went to the Brigade premises where the trade union members were being held and determined that they were in good physical condition. On 14 March 1990, the Calí Regional Prosecutor's Office reported that it was conducting preliminary inquiries into alleged irregularities during the raids and in the wording used in Decrees No. 180 of 1988 and No. 1859 of 1989. It also provided assurances that, once the investigations being conducted in accordance with the legislation in force in Colombia have been completed, the national Government will report to the Special Rapporteur.

47. On 20 July 1990, the Special Rapporteur sent the Government of Colombia an urgent message concerning Juan de Dios Moreno and Licinio Rentería, banana plantation workers who were arrested on 28 June 1990 by members of the Infantry Battalion in Apartado, Antioquia, and accused of collaboration with guerrilla groups. According to the information received, they were taken to the regional military barracks where they were interrogated under torture. Fears have been expressed that they might continue to be in danger of being tortured.

Government letters and replies

48. On 6 December 1990, the Government of Colombia provided the Special Rapporteur with information on two of the cases referred to in his letter dated 19 April 1989 (see document E/CN.4/1990/17, para. 46). With regard to the cases of Marisela Margarita Cuello Villamil (not Hernández) and Argiro Alonso Avendaño Palacio, it reported that the Prosecutor's Office for the Defence of Human Rights made a special visit to the Seventh Court of Public Order in Medellín. The visiting lawyer from the Attorney-General's Office spoke with the persons concerned, noting that there had been no

Gaza Strip and detained in Gaza Central prison. According to the information, before he was allowed to see a lawyer for the first time on 24 September 1990, he had been deprived of sleep for three weeks, with breaks only at weekends, and beaten several times on his face, abdomen and genitals.

91. On 20 November 1990 the Special Rapporteur sent an urgent appeal to the Government of Israel concerning Ahmed Kabaha and Rami Muslah. Ahmed Kabaha, aged 17, from the village of Barta'a, was arrested on 1 November 1990, on suspicion of raising the Palestinian flag in his village. He was first taken to the Kishon prison and then, on 8 November, was transferred to a detention centre in Petah Tikva, where he was reportedly interrogated by agents of the General Security Service (GSS). On 11 November, when he was brought to court for a remand hearing, he alleged that a GSS interrogator had burned him with cigarettes on his chest and then threatened him with further torture if he complained about it. He showed the judge five or six cigarette burns. Rami Muslah, aged 14, from Al-Bureij refugee camp in the Gaza Strip, was arrested on 25 September 1990 following the burning to death of an Israeli soldier in the camp and taken to Gaza Central prison. A lawyer saw him, for the first time since his arrest, on 29 September. The lawyer later affirmed that Muslah was breathing heavily, had difficulty speaking and was coughing frequently and spitting blood. Rami Muslah reportedly told the lawyer that during interrogation he had been beaten all over his body, mainly on the head and chest. On 30 October his detention was extended for 120 days. On 9 November two lawyers visited him and later affirmed that he looked ill, continued to have difficulty speaking and coughed frequently. In an affidavit they took from him he alleged that he had been interrogated by eight men who beat him all over his body, including his chest, stomach and genitals. He was allegedly also subjected to threats of being shot unless he confessed, as well as to degrading treatment. The torture and ill-treatment allegedly continued for a week. Rami Muslah saw a doctor three times but received only tablets. Fears have been expressed that Ahmed Kabaha and Rami Muslah may continue to be subjected to torture and ill-treatment while being interrogated, and that they may be denied appropriate medical treatment.

Letters and Government replies

92. On 7 December 1990 the Government of Israel provided the Special Rapporteur with detailed information on the cases of Ra'ad Adwan and Nidal Q'abi, transmitted to it by letter dated 19 July 1989 (E/CN.4/1990/17, para. 92) and that of Sha'wan Jabarin, transmitted by letter dated 16 November 1989 (E/CN.4/1990/17, para. 94). Regarding the case of Ra'ad Adwan, an inquiry was carried out by the Investigation Department of the Israel Police, and it was determined that he was injured during a stone throwing incident. Contrary to widely disseminated allegations his medical records indicate that his injury was caused by a rubber bullet, the use of which was found to be justified under the circumstances. No evidence whatsoever supports the claim that he was beaten or hit. As regards Nidal Qa'bi, he was injured during a violent confrontation between Border Policemen and masked youths, after he himself threw a rock which hit the deputy commander of the force in the chest. During the ensuing chase a Border Policeman fired a cannister of rubber bullets which hit Qa'bi's head and fractured his nose. "The Border Police administered first aid to Qa'bi who was then transferred by ambulance to Ittihad hospital in Nablus for further care ... The medical report makes no mention of any burns. This fact

physical torture. Mrs. Cuello Villamil's lawyer reported her death to the Seventh Court as having occurred in Caucasia, Antioquia. However, the Court has not been able to provide evidence of her death.

49. On 6 June 1990, the Special Rapporteur sent a letter to the Government of Colombia transmitting information relating to the following cases of torture which allegedly occurred between 1989 and March 1990.

(a) Emiro Bustamante, aged 22, arrested on 10 February 1989 and transferred to Sanbenito Prison, Sucre. Members of the Sanbenito police and the police commander allegedly beat him, covered his face up with a towel and strung him up by the hands, which were tied with a nylon rope;

(b) Orlando Chamorro Medrano, aged 30, arrested on 16 February 1989 by members of DAS and Battalion No. 5 in Corozal. They allegedly tortured him in his house, in the presence of his family. The chief of DAS allegedly hit, kicked and punched him; and then they bashed his head against a tree;

(c) Victor Julio Palacios Martínez, aged 29, arrested on 25 May 1989 by members of the Anti-Guerrilla Army. A captain whose name has been transmitted to the Government and two members of the Rifles Battalion are said to have tortured him for about one and a half hours. They grabbed him by the hair and beat him on the head with the handle of a knife and the butt of a rifle;

(d) Maximiliano Sánchez Mejía, aged 27, arrested on 17 June 1989 by members of the Infantry Battalion who allegedly tortured him for over 50 hours by kicking him and threatening him with electric shocks and death;

(e) Maria Elizabeth Suarez Giraldo, arrested on 2 March 1990 by members of DAS and the Third Infantry Brigade in Cali. She was transferred to the Third Brigade barracks and taken on 6 March to a detention centre where she is still being held. During her detention, she was allegedly subjected to torture and ill-treatment, including being deprived of food and water, receiving death threats against herself and her seven-year-old daughter and being beaten, forced to stand for 8 or 10 hours and jabbed in the chest with pins. She was also allegedly raped by two men.

50. In a letter dated 6 December 1990, the Government provided information on the case of Víctor Julio Palacios Martínez. According to the information, there were no complaints of the alleged torture of this person until 3 November 1990. Officials from the Attorney-General's Office nevertheless visited the premises of the Rifles Battalion, where they found no evidence leading to the conclusion that this person was arrested by military personnel. The captain whose name was communicated to the Government as the alleged torturer of Mr. Palacios Martínez is not on duty with the Battalion and has never been listed as one of its active members.

51. On 19 November 1990, the Government of Colombia provided the Special Rapporteur with information on three of the above-mentioned persons. In the cases of Emiro Bustamante and Orlando Chamorro Medrano, it stated that the Regional Prosecutor of the capital of Sucre informed the Prosecutors' Office for the Defence of Human Rights, in a telegram of 25 August, that it had so far not received any complaint of the alleged torture of these persons. In the case of Maximiliano Sánchez Mejía, it was stated that a communication sent by the Prosecutor's Office for the Defence of Human Rights

refers to a telegram from the Regional Prosecutor in Apartado, the area of influence of the Infantry Battalion, reporting that, on the basis of the review of the records of this regional office of the Attorney-General's Office, no proceedings have been instituted in connection with the alleged torture of this person. On 20 November 1990, the Government provided information on the case of María Elizabeth Suárez Giraldo to the effect that, according to the Prosecutor's Office for the Defence of Human Rights and in connection with the complaint of the rape of this person, "the file states that she appeared for a forensic medical examination 20 days after it allegedly occurred, thus preventing the medical expert from identifying signs, symptoms or injuries which would make it possible to determine etiology, consequences or forensic disability". It was also stated that, in connection with the disciplinary investigation into the possible torture of trade unionists, charges were brought against four officers (a colonel, a major, a captain and a lieutenant). At present, the proceedings are at the stage of the gathering of evidence as admitted and ordered by the Prosecutor's Office for the Defence of Human Rights.

Comoros

Urgent appeals

52. On 11 October 1990 the Special Rapporteur sent an urgent appeal to the Government of Comoros concerning a group of more than a dozen persons who were reportedly arrested in late August 1990 and detained incommunicado without a charge or trial. Among these persons seven were identified as follows: Moussa Ali, Ahamada Chioni, Mohamed Machangama, Al Mohamed Massani, Hadji Mohamed, Ali Soihili and Said Mlinde. Said Mlinde was said to have died in detention on 15 September 1990. According to the information the arrests occurred following reports from Government sources that a destabilization attempt against the Government had been foiled.

Congo

Urgent appeals and Government replies

53. On 27 July 1990, the Special Rapporteur sent an urgent appeal to the Government of the Congo transmitting information concerning Mr. Celestin Nkona, who was arrested on 9 July 1990, and Clement Mierassa, who was arrested on 11 July 1990. These two persons, whose arrest was linked to the discovery of a plot to overthrow the Government, were allegedly held incommunicado, under the supervision of the Public Safety Department. According to the information received, they were not able to communicate with a lawyer and were not brought before a court. Fears were expressed that they might have been tortured while they were being held incommunicado.

54. On 31 August 1990, the Government of the Congo informed the Special Rapporteur that, on the occasion of the 30th anniversary of the country's independence, the President of the People's Republic of the Congo decreed a general amnesty for all political prisoners. All individuals being prosecuted or detained for political offences committed prior to 14 August 1990 benefit from this presidential clemency measure.

also allegedly denied medical treatment. On 2 November 1989 he was examined by an independent doctor in the Moscobiyah detention centre. The doctor stated in his report that Jadallah showed signs of having been beaten all over his body, including injuries near his eyes and bruises on several parts of his body;

(c) Ibrahim Kassem Kawarik, aged 25, from El-Bireh, arrested in Ramallah on 1 December 1989 and taken to the Moscobiyah detention centre. He was allegedly severely beaten, deprived of sleep, choked to the point of losing consciousness and subjected to a practice known as "Shabeh" (being forced to stand for prolonged periods in the open, exposed to all kinds of weather, with one's head covered and hands tied behind the back). Ten days later he was transferred to Ramallah prison where his ill-treatment allegedly continued. In particular, it was alleged that his arm was broken by a General Security Services officer whose name as well as those of the other interrogators, was transmitted to the Government. He received medical treatment for his broken arm two weeks after it was broken;

(d) Yusuf Abu Ta'a, aged 22, student at the Bir Zeit University, arrested on 8 December 1989. He was allegedly severely beaten by one of his interrogators and was subjected to the practices of "Shabeh" and "Khazaneh" (being confined to a space too small to sit or stand).

94. In addition to the aforementioned it was reported that Walid Abu-Surur, from the Aida refugee camp near Bethlehem, was allegedly beaten all over his body with fists and rifle butts by two soldiers. The incident occurred on or around 17 April 1990. Abu-Surur, a member of a group called "Runners for Peace", has reportedly been harassed and threatened on several occasions by soldiers, in an attempt to dissuade him from participating in the group's activities. Three other members of the group, Ahmed Abu-Surur, Muhammad Abu-Surur and Mustafa Akal, all from the Aida camp, have allegedly also been harassed, beaten and threatened in similar circumstances. Mustafa Akal was arrested on 17 April 1990 and was at present reportedly detained at the Dhahiriya detention centre. The reason for his detention was not known.

95. On 15 October 1990 the Special Rapporteur sent a letter to the Government of Israel transmitting information according to which Riad Shehabi, aged 24, was arrested on 17 July 1990 in the Old City of Jerusalem, on charges including stone throwing, and was taken to the Kishle police station. He later alleged that on 21 July, during interrogation, he was hooded and beaten with sticks all over the body, particularly the hands, head, legs and back. Several sticks were said to have been broken while he was being beaten. According to the source Shehabi was taken to hospital for treatment and then transferred to the Russian Compound detention centre. When his family and his lawyer visited him, on 22 July, marks of the beatings were said to be clearly visible on his body and both hands were in plaster casts.

96. Reports concerning Palestinian women detained in the detention centres of Kishon, Russian Compound in Jerusalem and Hasharon, alleged that conditions in these facilities are very harsh and that the detainees, sometimes girls aged 15 or 16, are often beaten and threatened with rape or other sexual abuse. A list of eight female detainees, including a 15-year old girl named Efaf Abdallah Salim, who were allegedly tortured in detention, was transmitted to the Government.

Cuba

Urgent messages and Government replies

55. On 23 May 1990, the Special Rapporteur sent an urgent message to the Government of Cuba concerning Mr. Juan Enrique García, a member of the Association for Free Art (APEL) who was arrested in October 1988 and sentenced in November 1989 to 18 months in prison, plus two years for an earlier conviction. According to the information received, Mr. García's state of health is allegedly very serious, since he is said to suffer from various illnesses, including digestive paralysis, and has been denied the necessary medical treatment.

56. On 13 August 1990, the Government of Cuba sent the following information to the Special Rapporteur:

> "At present, Mr. García Cruz is in the National Prisoners' Hospital in Combinado del Este, where he was visited last 21 June by officials from the Office of the Attorney-General of the Republic.
>
> Prior to the above-mentioned communication, the prison authorities arranged for a thorough medical check-up for García Cruz, who specifically recognizes that the check-up is up to the standard available in any of the hospitals in the country. Thus, since he has been found to have gastritis and chronic duodenitis, a balanced diet which satisfies the medical requirements in the case has been ordered."

Ecuador

Urgent messages and Government replies

57. On 7 June 1990, the Special Rapporteur sent an urgent message to the Government of Ecuador concerning Mr. René Sangolqui, aged 27, who was arrested on 7 May 1990 by two policemen in the town of Loja. According to the information received, Mr. Sangolqui was allegedly interrogated under torture to make him confess to having taken part in the murder of two persons in Vilcabamba on 5 March 1990. Mr. Sangolqui is still in detention and fear has been expressed that he might again be subjected to torture.

58. On 12 July 1990, the Government of Ecuador informed the Special Rapporteur that Mr. Sangolqui's case was not one of arbitrary or unlawful detention, but of proceedings conducted with every legal guarantee. "With regard to the complaints of the alleged torture of this person during the police investigations, the National Government is conducting thorough investigations and will impose the necessary penalties when it finds the persons responsible for having violated the trade union's individual rights and guarantees".

59. On 6 July 1990, the Special Rapporteur sent an urgent message to the Government of Uruguay concerning Mrs. Rosa Cárdenas Hernández, aged 30. It is reported that she voluntarily turned herself in to the law enforcement authorities as a result of an arrest warrant for her alleged participation in the kidnapping of Mr. Nahin Isaías in August 1985. Since October 1983, Mrs. Cárdenas Hernández has allegedly been persecuted and threatened as a

result of her presumed membership of an opposition group, for which she was tried twice and acquitted for lack of evidence of the charges against her. It is reported that, in October 1983, she was held incommunicado for 15 days, during which, as stated in the complaint, she was tortured and given electric shocks. It is also reported that, in August 1984, she was again held incommunicado for seven days and tortured.

60. On 10 August 1990, the Government of Ecuador informed the Special Rapporteur that: "Mrs. Cárdenas Hernández voluntarily turned herself in so that the court proceedings lawfully interrupted by her absence could continue, a procedure provided for by Ecuadorian law. Mrs. Cárdenas' voluntary surrender took place publicly at the Court of Constitutional Guarantees in the presence of members of the Court and the Government Under-Secretariat, thus clearly demonstrating that conditions of humanitarian treatment, respect for human rights and the guarantee of an impartial trial have changed for the better in the country since August 1988, when the Government of Dr. Rodrigo Borja took power. In this specific case, the extended duration of the proceedings against Mrs. Cárdenas is due primarily to the fact that Ecuadorian law requires the interruption of judicial proceedings when the accused are not present, as in this case. Mrs. Cárdenas now has the assurance of treatment surrounded by every possible individual and procedural guarantee".

Government letters and replies

61. On 28 February 1990, the Government of Ecuador sent the Special Rapporteur a letter replying to a communication of 17 November 1989 (E/CN.4/1990/17, para. 53) stating that the National Government is conducting the necessary investigations into the cases referred to and assuring him that it would make the information provided by the National Government available as soon as the investigations were completed. It also reported that, as an example of the activities being carried out to put an end to violations of human rights in the country, about 20 prison guards were dismissed from their functions for being responsible for the ill-treatment of prisoners in the various social rehabilitation centres in the country. In addition, in order to eliminate the ill-treatment of prisoners in rehabilitation centres, the National Government is setting up a training school for prison guards to prepare persons specifically for this work.

Egypt

Urgent appeals

62. On 14 September 1990, the Special Rapporteur sent an urgent appeal to the Government of Egypt concerning Khaled El Sherif, a journalist, who was arrested on 13 August 1990 and is currently being held at Tora Prison near El Maadi. It was alleged that Mr. El Sherif was tortured from 13 to 15 August 1990 at the State Security Intelligence Headquarters, known as Lazughli, and that after being transferred to Tora Prison he was taken back to Lazughli and was again tortured for a week. A representative of the Egyptian Organization for Human Rights reportedly visited Mr. El Sherif and saw various marks of torture on his body, including black scars indicating torture by electric shocks, and cigarette burns. It was further alleged that the Tora Prison administration failed to obey an order by the El Maadi Prosecutor to transfer Mr. El Sherif to a clinic.

Letters

63. On 6 June 1990 the Special Rapporteur addressed a letter to the Government of Egypt transmitting information alleging that the practice of torture and ill-treatment of detainees has continued to increase in the last months of 1989. According to testimonies given by former detainees arbitrary arrests and detentions without formal charges have become more common in recent months. The methods of physical and psychological torture allegedly resorted to in Egyptian prisons and State Security Intelligence Police (SSIP) centres included: beating, flogging, suspension by the wrists, ankles or knees; electric shocks administered to sensitive areas such as the mouth, nipples or genitals; sexual abuse, indefinite solitary confinement, stripping, blindfolding, exposure to extreme water temperatures, temporary suffocation, deprivation of basic necessities, such as food, water or bathroom facilities; and threats of rape or abuse directed at the detainees' friends, family, or relatives. It was further reported that in 1989 the practice of "aroussa", whereby a prisoner is placed semi-naked on a cross and whipped, came back into use in Egyptian prisons. Detention centres and prisons where torture was alleged to be practised systematically included SSIP centres in Cairo (Lazughli), Giza and Asyût, as well as the Tora Reception prison and the Abu-Za'abal prison. Victims were said to have principally included activists of opposition groups and members or sympathizers of Islamic fundamentalist groups, but to an increasing extent simple demonstrators and children have allegedly also been subjected to ill-treatment and torture. In some cases the wounds reportedly inflicted, resulted in the detainee's death. It was reported that numerous torture complaints have been filed with the office of the Prosecutor General, but that the result was usually one of no investigation or refusal to comment. The following cases of alleged torture and death as a result of torture were reported:

(a) Makhlouf Abdel-Al Ahmed was arrested on 2 January 1989 by security officers and detained at el Dahar Police Station. He was allegedly beaten on the head, face and chest, and then sent to the Coptic hospital. He died on 8 January 1989. A forensic study concluded that the cause of death was severe cerebral haemorrhaging as well as a collapse of the cardiac and circulatory systems. The former reportedly resulted from beatings on the back of his head;

(b) Emad Yussef Ahmed Qandil, arrested on 4 April 1989, was allegedly tortured at the SSIP centre in Tanta (Gharbia Governorate). Torture included electric shocks and being suspended from an iron bar between two chairs;

(c) Mohamed Mostafa Ibrahim, a worker and elected member to the board of directors in the Iron and Steel Company in Helwan, was arrested on 6 August 1989 in connection with a peaceful sit-in demonstration. Both he and his colleague, Mostafa Nayed, were stripped, bound, beaten, and received electric shocks in sensitive areas;

(d) Kamal Khalil Ibrahim, arrested with 62 other persons on 24 August 1989. Upon transferral to Abu Za'abal Prison Ibrahim and his colleagues were subjected to a group beating by police, armed with sticks and electric batons. It was further reported that Khalil's head was banged against a wall until he lost consciousness;

(e) Tariq al Aswani, Ali Abdulmuneim and Kamal Assa'id held on 22 August 1989 in connection with activity in the banned "Jihad" Islamic group, were reportedly subjected to the "aroussa" treatment;

(f) Dr. Ahmed Abdel Salim, Husni Nagdi and another approximately 500 persons arrested in Asyut in December 1989 following violent clashes between the security forces and supporters of the Islamic groups at Asyût University. The detainees were reported to be held incommunicado by the SSIP at its detention centre in Asyût. The two above-mentioned detainees had allegedly been severely beaten on their faces and others had been beaten and tortured;

(g) Abdel Nasser Abdel Alim Durra and Magdi Muhammad Salem had reportedly been forcibly repatriated to Egypt from Saudi Arabia in November 1989 and were detained under emergency legislation in Tora Reception prison. They were allegedly tortured by SSIP officers at the SSIP headquarters at Lazughli;

(h) Ahmed Abdul Nabi Muhammad Antar, Hisham Muhammad Muhammad Eisa, Muhammad Said Abdul Meguid, Ali Ahmad Ali al-Naggar were arrested by SSIP at Alexandria on 28 November 1989. During interrogation and upon transferral to Tora Reception prison on 12 December 1989 they were allegedly tortured, including being kept naked, denied food and drink, as well as medical treatment, and subjected to beatings, abuse and electric shocks for four days;

(i) It was further reported that on 29 August 1989, 80 children between the ages of 6 and 10 years old, in addition to 13 supervisors, attending a recreational camp in Alexandria were arrested by a large security force of soldiers and officers with machine-guns. The children and supervisors were forced to spend the first night on the ground of a custody room without any amenities in Montazah Police Station in Alexandria. According to children's testimonies, specifically Ahmed Emad Mohamed Abdel Wahab (age 9) and Hani Mohamed Ali Beshir (age 10), a number of them were subjected to verbal abuse, exposed to crowded conditions without facilities, deprived of blankets, and beaten or kicked.

El Salvador

Urgent messages

64. On 14 September 1990, the Special Rapporteur sent an urgent message to the Government of El Salvador concerning Miguel Angel Barillas Osegueda, a 25-year-old university student who was arrested on 11 August 1990 by soldiers from the Atlacatl Battalion. On 13 August, Mr. Barillas was allegedly transferred to the National Guard in Santa Tecla, where he was reported to have been brutally tortured. He was kept at the Municipal Police Station until 27 August, when he was taken to the First Criminal Court in San Salvador. Even though he denied the charges against him and described the harassment and treatment to which he was subjected, he was remanded to "La Esperanza" prison in San Luis Mariona, where he is still being held. According to the complainants, from the time of his arrest until now, he has not received medical care or any official medical examination of his physical condition, even though he continues to suffer from the consequences of the ill-treatment to which he was allegedly subjected.

in Mauritanian territory, whether a citizen or not, may assert all these rights and is free to institute court proceedings where necessary. The courts rule within a reasonable period of time on any properly registered complaint and administer justice to possible victims. However, the courts have not registered complaints from any of the persons referred to in the Special Rapporteur's telex, whereas an application to the courts is not only the easiest course, but also the initial remedy which must be sought by any citizen who claims to be a victim of an abuse. The exhaustion of local remedies is after all widely recognized as being a prerequisite for any application to international bodies".

Government letters and replies

109. On 17 January 1990, the Mauritanian Government sent the Special Rapporteur a note verbale in reply to his letter of 2 October 1989 (E/CN.4/1990/17, para. 102). The note contained statements which were identical in content to those referred to in the preceding paragraph.

Mexico

Letters and Government replies

110. On 6 June 1990, the Special Rapporteur sent a letter to the Government of Mexico transmitting information stating that Mr. Jesús Manuel Martínez Ruiz was arrested by Judicial Police officers on 4 September 1989 in Villahermosa, State of Tabasco, and, during his detention, was allegedly subjected to torture that led to his death. Mr. Julio César Márquez Valenzuela, who was also arrested on the same day and subjected to torture, reportedly stated that Mr. Martínez Ruiz's death was the result of torture by Judicial Police officers. Two of Mr. Martínez Ruiz's relatives, Mr. Oscar González Martínez and Mrs. Esperanza Luna Jiménez, were also reportedly detained on 13 October 1989 in Villahermosa by Judicial Police officers and subjected to torture to make them provide information about Mr. Márquez Valenzuela.

111. It has also been reported that some persons in Embocadero, State of Veracruz, were arrested in November 1989 in connection with the murders of two bosses in 1984 and were reportedly subjected to torture and ill-treatment to make them confess to having taken part in the murders. The Special Rapporteur transmitted the cases of Sócimo Centeno Hernández, Guilebaldo Centeno, Gonzalo Ibarra and Quintil Quintero to the Government. According to another complaint, José Sandoval Méndez, aged 63, and his son, Santiago Sandoval Ramírez, aged 16, were arrested in the outskirts of San Antonio Escobedo, State of Jalisco, on 24 August 1989 by members of the armed forces and transferred to the headquarters of Military Zone XV in Guadalajara, where they were allegedly subjected to torture to force them to confess to having grown and sold marijuana.

112. On 29 August 1990, the Government of Mexico informed the Special Rapporteur that, following an investigation into the death of Jesús Manuel Martínez Ruiz, the case was referred by the Attorney-General's Office to the competent criminal court on 17 August 1990 and proceedings were instituted against a commander and four officers of the Judicial Police in the State of Tabasco, who allegedly committed the offence of abuse of authority in connection with the torture and murder of Mr. Martínez Ruiz. On 3 October 1990, the Government gave the Special Rapporteur the recommendation

Letters and Government replies

65. On 20 September 1990, the Government of El Salvador sent a letter to the Special Rapporteur providing information on cases of the torture and killing of civilians and soldiers which allegedly occurred in the country during the period from May to September 1990. According to the letter, those responsible for such incidents were members of the Frente Farabundo Martí armed irregular group. On 22 October 1990, the Government sent the Special Rapporteur a report on the cases of human rights violations by members of the Armed Forces which have been referred to the courts (from January to July 1990).

66. On 15 October 1990, the Special Rapporteur sent a letter to the Government of El Salvador transmitting information concerning:

(a) Avelino Escobar Jiménez, aged 42, member of a co-operative, arrested on 26 March 1990 at El Jicaro Co-operative, Department of Ahuachapán, by 12 soldiers. He stated that he had been tortured in the barracks of Military Unit N7 in Ahuachapán. The torture consisted of being beaten on all parts of the body with a stick and a pistol while he was naked and of being strung up by his hands, which were tied behind his back. Mr. Escobar Jiménez was released on 29 March 1990;

(b) José Santos Tobar Escobar, aged 32, farm worker in Teotepeque, La Libertad, arrested on 4 May 1990. Alleged that he had been tortured while he was being interrogated in the barracks of the Sixth Military Unit. The torture included blows and kicks to the head, stomach and other parts of the body; being strung up by the arms for 10 minutes; sleep deprivation; and threats. Mr. Tobar Escobar also stated that he had been tortured at the National Guard headquarters in Izalco. He filed an official complaint with the Attorney-General's Office on 25 May 1990;

(c) Carlos González, a Spanish national, was arrested on 4 June 1990 by members of the National Guard in the outskirts of San Salvador. He states that, during the two and one half days of his detention, he was subjected to torture: during the interrogation, he had his eyes blindfolded and he was repeatedly hit, burned with cigarettes and left out in the very hot sun, as a result of which he suffered first-degree burns. He was also threatened with the electric chair, other types of torture and death. After his release, he was examined by two independent doctors. These medical examinations led to the conclusion that he had wounds which were fully in keeping with his description of the ill-treatment to which he had been subjected.

Equatorial Guinea

Urgent messages

67. On 6 July 1990, the Special Rapporteur sent an urgent message to the Government of Equatorial Guinea concerning José Eneme, former Consul of Equatorial Guinea in Cameroon, who was allegedly arrested in January 1990 and taken to Bata Prison. As a result of the torture to which he was allegedly subjected, particularly by having his head submerged in a toxic solution, his face was disfigured. The message also concerned Juan Eyeme Nguema, former director of the National Social Security Institute, who was allegedly arrested in April 1990 at Malabo Airport and taken to the prison in that city.

According to the information received, in the past, prisoners in Malabo and Bata Prisons were allegedly beaten and tortured. Fear has been expressed that the two above-mentioned persons might still be in danger of being tortured.

Ethiopia

Urgent appeals

68. On 21 May 1990 the Special Rapporteur sent an urgent appeal to the Government of Ethiopia concerning Tilahun Fardesse, aged 38, employee at the Ministry of Transport, and another person whose name was not reported. Both were reportedly detained on 16 May 1990 in Addis Ababa by eight or nine armed policemen in plain clothes and taken to the police head office. Three other persons were reportedly detained at the same time: a philosophy student at Addis Ababa University whose first name was reported to be Salomon and two Dutch journalists. Salomon was released on 17 May 1990 and the two journalists were expelled from the country on 18 May 1990. According to one of them Tilahun Fardesse was tortured immediately after his arrest and an eyewitness saw his clothes stained with blood. Mr. Fardesse had reportedly spent two years in gaol in 1987-1988 for supporting rebel activity.

Letters and Government replies

69. On 9 February 1990 the Government of Ethiopia sent the following information to the Special Rapporteur in reply to his letter of 2 October 1989 (E/CN.4/1990/17, para. 65): "... The Government of the People's Democratic Republic of Ethiopia has taken steps to investigate the case brought to its attention by the Special Rapporteur, concerning the alleged ill-treatment and torture of prisoners, as well as conditions in prison centres. The result of the investigation has made it clear that the allegations transmitted to the Special Rapporteur are unfounded and baseless". In addition, the Government of Ethiopia provided several legal texts, including relevant articles of the Constitution of 1987 which was adopted in a national referendum, with a view to proving the existence of legal and administrative safeguards for the protection of the rights and freedoms of those under detention in Ethiopia.

Fiji

Letters

70. On 6 June 1990 the Special Rapporteur addressed a letter to the Government of Fiji transmitting information according to which Chief Justice Apaitia Seru was reported as saying, on an unspecified date in 1989 that many defendants appeared in court with "visible signs of injury", apparently resulting from ill-treatment and torture while in police custody. He also reportedly expressed concern about the frequency of "deliberate police assault" of detainees. It was further reported that several students and staff members at the University of the South Pacific (USP), all of them politically active, were detained between 8 and 14 October 1989 by members of the security forces and were allegedly subjected to physical abuse and intimidation. Sushil Chandra, President of the USP Indian Students' Organisation, and Nandesa Gounder, Secretary of the same organization, were reportedly detained by police on 14 October 1989 and were allegedly kicked and

Haiti

Urgent appeals and Government replies

75. On 28 December 1989, the Government of Haiti sent the Special Rapporteur the following information in reply to his urgent appeal of 20 November 1989 (E/CN.4/1990/17, para. 77): "According to the information available to the Haitian Ministry of Justice, these detainees, Mr. Jean Auguste Mesyeux, Mr. Evans Paul and Mr. Marineau Etienne, were brought before their natural judges on 3 November 1989, in accordance with the law, in order to answer the charges brought against them. They were also taken to the Military Hospital on 17 November 1989, in order to receive the care they needed".

76. On 1 February 1990, the Special Rapporteur sent an urgent appeal to the Haitian Government transmitting information that Mr. Enock Joseph, Mayor of the Commune of Chardonière, and Mr. Camelo Brutus, as well as a large number of other persons, were recently arrested and reportedly being subjected to torture.

Letters

77. On 10 August 1990, the Special Rapporteur addressed a letter to the Haitian Government transmitting information that Mr. Tony Verriot, a journalist with Radio Haiti Inter, was allegedly arrested by Haitian Army soldiers in Port-de-Paix on 15 May 1990 while he was conducting an investigation in the court in that town. According to the source, Judge Thulien Vincent, who was the subject of the journalist's investigation, had called soldiers in to have Mr. Verriot removed from the court. During his arrest, Mr. Verriot was allegedly beaten by the soldiers inside the court-house and on the way to the army command post in the town. While he was being detained at the post, he was reportedly tortured by some 30 soldiers. He was released the following day and had to be given emergency medical treatment. According to the same source, Mr. Dauphin Eugène, a journalist with Radio Etincelle in Port-de-Paix, was reportedly arrested on 19 May 1990, also at the request of Judge Vincent. Mr. Eugène was allegedly held at the army command post, where he was subjected to ill-treatment.

India

Letters

78. On 6 June 1990 the Special Rapporteur addressed a letter to the Government of India transmitting information alleging that 19 members of the Pardhi community, a tribe, were arrested by police on 13 February 1989 at Khopoli, Raigad district, Maharashtra, on suspicion of involvement in gang robbery in Raigad and Thana districts. Their names and ages were reported to the Government. According to sworn statements they made in court they had been tortured by being beaten while held in Khopoli, Panvel, Uran and Vasai police stations, and had been often denied food. On 21 April 1989 the Bombay High Court ordered an immediate judicial inquiry into the torture allegations. The judge who carried out the inquiry concluded that the detainees had received ill-treatment at the hands of the Khopoli police during the period between 13 and 24 February 1989, but the exact identity of the six persons believed to be responsible was not established. On 14 August 1989 the Bombay High Court

of the questioning the authorities did not use torture nor other forms of ill-treatment. The allegation that he has been subjected to daily torture was therefore unfounded. With regard to the other East Timorese pupils allegedly arrested following a demonstration in Dili on 4 September 1990, it was affirmed that not a single person was arrested or subjected to torture by the security authorities. A number of persons were indeed questioned for partaking in the demonstration, but they were subsequently released as there was no sound reason for the authorities to detain them.

Letters and Government replies

83. On 24 July 1990 the Indonesian Government sent a letter to the Special Rapporteur in reply to his communication of 14 November 1989 (see E/CN.4/1990/17, para. 89) concerning several East Timorese people. It was affirmed that several people had been questioned in connection with "a conspiracy to entice security disturbances" during the President's visit to East Timor in November 1988. Following further investigation only two persons, Filomeno Gomes and Anacias Fuca do Carmo, were put on trial and were given prison sentences of seven and six months, respectively. It was further affirmed that throughout the investigation, their right to physical and mental integrity was protected and the proceedings were in strict compliance with Indonesian laws and legal procedures. With regard to the use of torture and other forms of ill-treatment in the interrogation of suspects which is often alleged as being practised by Indonesian security personnel, the Government stated that such treatment is contrary to the State Philosophy, to the basic values of the Indonesian people and to existing legislation and regulations. Any failure to comply with these regulations is subject to disciplinary action.

84. On 6 June 1990 the Special Rapporteur addressed a letter to the Government of Indonesia transmitting information alleging that a large number of Sumatran civilians, described as sympathizers of a so-called Acheh/Sumatra National Liberation Front, were detained during 1989 and allegedly subjected to torture. Most of those arrested were said to be farmers, businessmen and students, principally from villages near the city of Lhok Senmawe, Pase Province. The Lhok Senmawe gaol and Lammenlo gaol were the two prisons where most of those arrested were alleged to be tortured. It was alleged that Indonesian security forces or police were responsible for the arrests and torture. A list of 24 persons, including women, who were allegedly tortured in detention, was transmitted to the Government.

85. On 24 July 1990 the Government replied by affirming that the allegations were totally groundless, and by describing the organization which made them as "a foreign based/sponsored group intent on disintegrating the national unity and territorial integrity of Indonesia". The Government also provided information pertaining to the situation in the province of Aceh, where several security personnel and civilians were recently killed as a result of activity by armed groups. During operations undertaken by the authorities to restore order in the province, a man named Yusuf Ab, believed to be a band leader, was killed in a shoot-out on 1 July 1990, as he defied arrest, and other suspects were arrested. "Since those arrested are involved in criminal activities and have no connection whatsoever with membership of nor are they sympathizers of the so-called Acheh/Sumatra National Liberation Front which is non-existent, the list of cases and persons submitted in the communication cannot be taken seriously. However, a serious investigation is being conducted by the relevant authorities, and due process of law will continue to be strictly observed".

86. On 14 August 1990 the Government provided additional information according to which, of the list of names submitted to the Government, only one could be identified: that of Bukhari Abdul Rahman, aged 26. The man was at present in police custody for interrogation regarding his supposed involvement in "the recent criminal activities". "The allegation that he was tortured in gaol is clearly unfounded. As to the remaining names on the list, none of them appears to correspond to any known individual".

Iran, Islamic Republic of

Urgent appeals

87. On 20 July 1990 the Special Rapporteur sent un urgent appeal to the Government of the Islamic Republic of Iran concerning Mohammad Hossein Bani Assadi, Reza Sadr, Nour Ali Tabandeh, Abol Fazl Mir Shams Shahshahani, Akbar Zarinehbaf, Abdolali Bazargan, Yadollah Roshan-Ardalan, Rahim Abedi, Habidollah Davaran, Amir Tavakol Ebrahimi, Abbas Ghaem Al Sabahi, Mahmoud Naimpoor, Ezatollah Sahabi, Farhad Behbehani, Ali Ardalan, Mohammad Tavassoli Hojati, Hashem Sabbaghian, Khosrow Mansourian, Mahmoud Maleki, Hormoz Momaiezi, Mezameddin Movahed and Hossein Shah Hosseini. The above-mentioned persons, many of whom were ministers or associates of former Prime Minister Mehdi Bazargan, were reportedly arrested on or after 12 June 1990, and are believed to be detained incommunicado in Evin prison. It was reported that some of those arrested are elderly or in ill health. One of them, Ali Ardalan, reportedly suffers from cardiac problems. It was further alleged that some of them were beaten while being arrested, and fears have been expressed that they may be subjected to torture or ill-treatment while in detention.

Iraq

Urgent appeals and Government replies

88. On 11 September 1990 the Special Rapporteur sent un urgent appeal to the Government of Iraq concerning the following persons: Haidar Ashkanani, aged 24, Muhammed Kadhim, aged 26, Ali Kadhim, aged 22, Abd Al-Muhsin Kadhim, aged 18, Jawad Al Qallaf, aged 19 and Muhammad Ibrahim, aged 18. These persons, all of whom Kuwaiti nationals, were reportedly arrested by Iraqi forces on 3 August 1990, after participating in a peaceful demonstration in the Sulaibikhat district of Kuwait city. They are believed to have subsequently been taken to Baghdad and to be currently detained incommunicado and without legal protection, and fears have been expressed that they, as well as other persons detained in similar circumstances may be subjected to torture or ill-treatment while they are interrogated.

89. On 1 November 1990 the Government informed the Special Rapporteur that there was no truth to the allegations contained in the above-mentioned appeal.

Israel

Urgent appeals

90. On 11 October 1990 the Special Rapporteur sent an urgent appeal to the Government of Israel concerning 'Abd Al-Ra'Uf Ghabin, aged 32, who was reportedly arrested on 30 August 1990 in the Beach Refugee Camp in the

corroborates the testimony given by the Border Policemen that Qa'bi was not asked to remove burning tyres and contradicts the story circulated that Border Policemen 'forced his hands onto the burning tyre'." As regards Shawan Jabarin, who was arrested in his home in the village of Sair, the following information was given regarding his allegation that he was beaten during the arrest. "The officers and the soldiers involved testified that Jabarin had refused to accompany them and resisted arrest in a manner which compelled the soldiers to use force in order to carry out their arrest order ... As a result of the force that was used Jabarin was slightly injured. Jabarin once again resisted arrest while being escorted to the vehicle. Consequently the soldiers were again compelled to use reasonable force in handcuffing Jabarin and placing him in the vehicle". As regards his allegation that he was beaten by soldiers during his transfer to the Civil Administration building in Hebron, it was reported that: "After questioning the soldiers involved, it became apparent that Jabarin was indeed struck on the back of his neck and on the head. On the basis of the investigation's findings, the Military Advocate ordered one of the soldiers court-martialled. In addition, two other soldiers involved in the incident faced disciplinary proceedings." It was further reported that the Military Advocate had recommended that disciplinary proceedings be instituted against several soldiers who allegedly used excessive force while carrying out a body search on Jabarin at the Hebron police station. Jabarin's allegation that policemen witnessed the soldiers beating him at the police station but did not intervene, were investigated and it was determined they were false. Jabarin's allegation that, while in prison, soldiers burned his ear and hand with a cigarette, could not be substantiated during the investigation. As regards his allegation that he was taken, in prison, to a rest-room where he was forced to lie on the floor of a lavatory stall and was beaten there by a soldier, the Military Advocate, on the basis of prima facie evidence supporting this claim, ordered that the soldier in question be indicted for abuse. Jabarin was subsequently subjected to two medical check-ups and was found to be in good health. As regards the remaining allegations transmitted to the Government, it was stated that in view of their considerable number it has so far been impossible to investigate all of them thoroughly. The Government also provided general information regarding detention or imprisonment in the country, methods of questioning suspects and investigation of complaints about alleged torture or ill-treatment.

93. On 6 June 1990 the Special Rapporteur addressed a letter to the Government of Israel transmitting the following detailed cases of alleged torture or ill-treatment suffered by Palestinian detainees while in police custody:

(a) Ibrahim Habash, aged 22, student at the Bir Zeit University, arrested on 28 August 1989. It was alleged that while he was detained at the Moscobiyah detention centre in Jerusalem he was repeatedly beaten and ill-treated by six persons described as informers. Cigarette burns were said to be visible on his body when his lawyer visited him on 20 October 1989;

(b) Murad Muhammad Isa Jadallah, aged 12, from Beit Safafa, arrested on 29 October 1989 on suspicion of possessing Palestinian flags, masks and petrol bombs. According to an affidavit signed by him on 1 November 1989, given to his lawyer, while he was being held in the Mocobiyah detention centre for interrogation he was beaten with clubs all over his body, his head was banged on a table and his face was slapped while his hair was being pulled. He was

97. In addition to the aforementioned the Special Rapporteur was informed of the case of Fatme Abu Bacra, aged 34, from the Gaza Strip, who was sentenced in June 1989 to six years' imprisonment. While she was in custody in the Ashkelon prison, from November 1986 until January 1987, she was allegedly severely tortured, as a result of which she is said to still suffer pain in one of her ribs which was fractured. It was alleged that over the past 10 months she has been denied medical treatment for a urinary tract infection which developed during the 4 months she spent in solitary confinement. She is said to suffer unbearable pain, sometimes causing her to lapse into unconsciousness.

Kenya

Urgent appeals and Government replies

98. On 26 July 1990 the Special Rapporteur sent un urgent appeal to the Government of Kenya concerning the following persons: Mohamed K. Ibrahim, Maina Mbacha, George Njoya, Stephen Mwangi, Stephen Ngotho Mwangi, Boniface Wambiri Wanjohi (all the above-mentioned were reportedly arrested on 4 or 5 July 1990); George Anyona, Edward Oyugi, Ngotho Kariuki, Andrew Ngumba, S.K. Ndungi, Joseph Mukiri, Kiruhi Kimondo and Augustin Kasanga (all the above-mentioned arrested between 10 and 12 July 1990). All the aforementioned persons are said to be advocates of a multi-party system. Some had served prison terms in the past. They are reportedly being held incommunicado, probably by the Special Branch, and fears have been expressed that they may be interrogated under torture in order to coerce them to confess to political offences or to plead guilty to a charge in court.

99. On 22 August 1990 the Special Rapporteur sent un urgent appeal to the Government of Kenya concerning Joe Omwaka Ager, aged 38. He was reportedly arrested in Nairobi on 31 July 1990 and was held incommunicado and without charge until 7 August. On that date he was brought to court, charged with possession of a seditious publication and remanded in custody. He is believed to be held in Kamili prison, where conditions for political prisoners are said to be harsh, and no date has been set for his trial. It was reported that in recent months, several defendants accused of similar offences had alleged they were tortured in order to make them plead guilty, and fears have therefore been expressed that Mr. Ager may be at risk of torture or ill-treatment.

100. On 16 October 1990 the Special Rapporteur sent un urgent appeal to the Government of Kenya concerning Koigi Wa Wamwere, leader of the Kenya Patriotic Front (KPF), who was arrested in Nairobi on 8 October 1990, allegedly for having entered the country clandestinely. Reportedly the police also affirmed that weapons were found in the house where he was arrested. Over a dozen other people, whose names were not given, were reportedly arrested because of their connections with Koigi Wa Wamwere. It was further alleged that Koigi Wa Wamwere might be held incommunicado by the Police Special Branch (also known as the Department for Security and Intelligence), in Nyayo House in Central Nairobi. Fears were expressed that he might be subjected to torture or ill-treatment, as it was alleged that political prisoners had been tortured in Nyayo House in the past.

101. On 23 October 1990 the Special Rapporteur sent un urgent appeal to the Government of Kenya concerning three persons arrested on 8 October 1990, apparently in connection with the detention of Mr. Wa Wamwere. They are Mirugi Kariuki, a lawyer in Nakuru, Rumba Kinuthia, a lawyer in Nairobi, and Christopher Kamuyu, member of Parliament for Dagoretti, in Nairobi. They are reportedly being held in incommunicado detention, without charge, and fears were expressed that they may be subjected to torture or ill-treatment.

102. On 28 October 1990, the Kenyan Government informed the Special Rapporteur that Mr. Keigi, Mr. Kinuthia, Mr. Kariuki and Mr. Kamuyu had been arraigned before the courts in Nairobi and that they have legal representation. Their case will be mentioned in court on 2 November 1990. It was a lie that they were held in incommunicado detention. They have been charged before the principal magistrate on 19 October 1990. The charges against them were criminal and not political. Those who saw them in court noticed no signs of torture or ill-treatment.

Kuwait

Urgent appeals

103. On 2 March 1990 the Special Rapporteur sent an urgent appeal to the Government of Kuwait concerning ten members of the Kuwaiti Shi'a community who were arrested on 14 and 18 February 1990 and were believed to be held at Amn Al-Dawla prison, in Al-Kuwait. Their names were: Hassan Habib Al-Salman, Saleh Jawhar, Kadhim Abd Al-Hussain, Jawad Al-Attar, Sayyid Jalil Tabataba'i, Sayyid Ali Tabataba'i (arrested on 14 February 1990 following raids and searches on their homes), Sayyid Taleb Abd Al-Majid Al-Kadhimi, Adel Dashti, Sayyid Mustafa Al-Mazidi and Sayyid Anwar Al-Mazidi (arrested on 18 February 1990). Most of them had been detained in 1989 following bomb explosions in Mecca, Saudi Arabia, in July 1989, and the execution of 16 Kuwaiti pilgrims in Saudi Arabia on 21 September 1989. Fears have been expressed that these persons may be tortured during interrogation, following reports alleging that other members of the kuwaiti Shi'a community recently held in the same prison were tortured during interrogation by the State Security Intelligence.

Letters

104. On 6 June 1990 the Special Rapporteur addressed a letter to the Government of Kuwait transmitting information according to which, following the alleged involvement by Kuwaiti Shi'a pilgrims in bomb attacks which occurred in Mecca, Saudi Arabia on 10 and 17 July 1989, and the subsequent execution of 16 Kuwaiti nationals in Saudi Arabia, several members of the Shi'a community were arrested in Kuwait and were allegedly tortured. The cases of the following individuals were reported: Sayyid Muhammad Baqir Abbas al-Musawi (also known as al-Muhri), the Imam of the Imam Ali Mosque in the al-Umairiya district of al-Kuwait city. He was arrested on 22 September 1989 on suspicion of planning the bomb attacks in Mecca and was held until 13 February 1990, reportedly without charge or trial, at the Amn al-Dawla prison in Kuwait, and later at the Kuwait Central Prison. It was alleged that he had been tortured during interrogation by the State Security Intelligence. The alleged torture included beatings and electric shock treatment. It was further alleged that one of the prison guards had trod on his neck and banged his head against a wall after he refused to sign a "confession".

105. Another four members of the Kuwaiti Shi'a community who were transferred to Kuwait Central Prison together with Mr. Abbas al-Musawi, were among a group of approximately 20 Shi'a arrested in Kuwait in the second half of November 1989. All were reportedly beaten and subjected to electric shock treatment during interrogation while in detention at Amn al-Dawla prison. Their names were reported as follows: Faisal Abd al-Hadi al-Mahmid, who was allegedly kicked and beaten to the point of losing consciousness; Abd al-Hamid al Saffar; Sayyid Walid al-Mazidi, student at Kuwait university, and his father-in-law Abd al-Rida Karoun, a Government employee.

Malaysia

Urgent appeals

106. On 19 June 1990, the Special Rapporteur sent an urgent appeal to the Government of Malaysia concerning Benedict Topin and Albinus Yudah who were arrested on 25 and 26 May 1990 in the State of Sabah and have since been held incommunicado at Bukit Aman police headquarters in Kuala Lumpur. Both were reportedly arrested under the internal security act which allows for indefinite detention without trial, and it was alleged that persons detained in the past under that act had been subjected to severe ill-treatment while held for interrogation. It was further reported that Benedict Topin had recently undergone surgery for a back injury and Abbinus Yudah was on his way to hospital to seek orthopaedic treatment when he was arrested.

Mauritania

Urgent appeals and Government replies

107. On 6 July 1990, the Special Rapporteur sent an urgent appeal to the Government of Mauritania transmitting information concerning Dieng Ibra Yero, Samba Papa Sy and his wife, Aissata Sy, Lo Boubacar Amath and Niang Samba Dienga. According to the information received, these five persons, who are all members of the Hal-Pulaar ethnic group, were arrested in April 1990 and are allegedly still being held incommunicado together with some 350 other persons in the Azlat Military Camp between Boghe and Aleg in the southern part of the country. The five persons were reportedly tortured in detention and fears have been expressed that they might be tortured again. The Special Rapporteur's attention was also drawn to the case of Mr. Cire Djekou Sow, aged 66, and Mr. Kegaido Coulibaly, aged 38. Mr. Djekou Sow was arrested on an unspecified date between 20 and 23 May 1990 and was reportedly taken unconscious to the National Guard Headquarters at Kaedi. Three days later, he was transferred to the Kaedi Police Station, where he was interrogated under torture. Mr. Coulibaly was also reportedly being held at Kaedi and fears were expressed that he might also be tortured.

108. On 21 October 1990, the Mauritanian Government sent the Special Rapporteur the following information: "Mauritanian legislation prohibits torture and any other corporal punishment. The relevant texts are a major component of the instruction given to law enforcement officials at all levels. The judiciary applies the full force of the law to any Government agent who is guilty of the use of torture and the political authorities ensure scrupulous respect for the protection of all human rights, including the right not to be subjected to torture or any other cruel, inhuman or degrading treatment. Any person living

in this case made by the Mexican National Human Rights Commission on 24 September 1990. On 5 October 1990, the Government sent the Special Rapporteur information provided by the competent authorities of the Government of the Mexican State of Veracruz on the other cases referred to in his letter of 5 June 1990. The Government reported that: "The arrests of Mr. Sócimo Centeno Hernández, Mr. Guilebaldo Centeno, Mr. Gonzalo Ibarra and Mr. Quintil Quintero were made on the basis of well-founded charges and at no time were their individual guarantees under articles 19 and 20 of the Political Constitution of the Republic violated".

113. On 15 October 1990, the Special Rapporteur sent a letter to the Government of Mexico transmitting complaints that torture and ill-treatment of detainees were regularly practised to obtain confessions and information, despite the legislation which prohibits torture and regards it as a punishable offence. Apparently, torture is used mainly by members of the Judicial Police and "informers" who help them unofficially. It was stated that these persons enjoy impunity in their work even though these practices are unlawful. Other apparent incentives for the use of torture are that no defence counsel is present during the first 72 hours of detention and the fact that confessions are regarded as valuable evidence. The methods of torture allegedly used were severe beatings, electric shocks, immersion in water, death threats, squirting carbonated water up the nose, pistol whipping, burns, plastic bags over the head and other forms of physical and psychological torture.

Reference was made to the following cases of alleged torture resulting in death:

(a) Prado Meno died on 15 September 1989 in the cells of the State Judicial Police, reportedly as a result of torture inflicted by police officers;

(b) Emiliano Olivas Madrigal was allegedly tortured and finally killed by State and Federal Judicial Police on 19 October 1989 in a hotel in Guadalupe y Calvo. The autopsy revealed many injuries caused by torture, which was determined to have been the cause of death;

(c) Ubaldo Santillán Aguilar, who was arrested without a warrant on 23 January 1990 in Aguascalientes, was first taken to the Prosecutor's Office and later transferred to a police detention centre. During the interrogation, he was reportedly tortured by three State Judicial Police officers who held his head under water and squirted carbonated water up his nose several times. Santillán died the same day, reportedly as a result of torture.

114. In addition to the above, the following cases of alleged torture were communicated:

(a) Irma Verónica Guerra and Manuel Huerta López were allegedly tortured by Federal Judicial Police officers on 21 November 1989 in Chihuahua. The woman, who was pregnant, filed official complaints with the Attorney-General's Office;

(b) Felipe Edgardo Canseco Ruiz, member of the PROCUP Party, was arrested on 13 June 1990 in Mexico City by several policemen in plain clothing. He was reportedly tortured during the five days of interrogation

that followed his arrest. The torture included electric shocks to sensitive parts of the body, water up the nasal passages until he nearly suffocated and blows on all parts of the body;

(c) Octavio Rendón Pérez, member of the National Democratic People's Front, was arrested by the Judicial Police on 27 April 1990. After his arrest, he was reportedly stripped and beaten and kicked by six policemen on all parts of his body, including the testicles and ears.

Morocco

Letters

115. On 27 November 1990, the Special Rapporteur sent a letter to the Government of Morocco transmitting information that the following persons reportedly died in 1989 after having been tortured: Abdeljalil Yakouti died on 4 February 1989 in the Ouarzazate police station; according to the source, an autopsy carried out in Marrakech disproved the theory that his death was the result of suicide; Bouaza Kharraz, arrested in May 1989 in Abijaad by members of the Auxiliary Forces; he was taken home several hours later, dead, with injuries and traces of torture; Abdeslam Ouahabi, a 28-year-old sailor who died on 10 August 1989 in the Larache police station after several days of detention during which he was allegedly subjected to torture; he was buried without an autopsy; Abderrahim Ben Khalifa, aged 23, died on 25 August 1989 during his transfer to the hospital, after having been brutally tortured; Larbi Charrat, a craftsman aged over 60, was arrested with other citizens following their demonstration against the demolition of dwellings in their village; he was reportedly beaten and tortured by security agents and died as a result of the torture on 27 August 1989 in the premises of the Sidi Slimane gendarme station. The Special Rapporteur's attention was also drawn to the case of Riahi Alayachi, a teacher in the Beni Slimane region who was allegedly tortured on 8 April 1989 when the local boss of Sidi Moussa and two auxiliary forces officers arrested him and took him to the local boss's office on charges of having sent letters to the press. He reportedly filed a complaint, but it is not known whether an inquiry was instituted and what the results were. The Special Rapporteur's attention was also drawn to the extremely harsh conditions of detention in the Tazmamart Military Prison, Rich region, and in the Kénitra Central Prison. Complaints have been made about unhygienic conditions, the lack of medical and paramedical care, the smallness of the cells, the lack of food and water, ill-treatment by the guards and the harsh climate.

Myanmar

Urgent appeals and Government replies

116. On 16 February 1990, the Special Rapporteur sent an urgent appeal to the Government of Myanmar concerning U Tin Soe, a parliamentary candidate for the National League for Democracy (NLD) Party, and two other NLD candidates, who were arrested in Yangon on 8 February 1990, and U Htwe Myint, a candidate for the Democracy Party, who was arrested in the same week. U Tin Soe had allegedly been tortured when he was detained in 1989. He was later released. It was alleged that any person arrested on political grounds by government security forces risked being tortured or ill-treated.

117. On 5 March 1990, the Special Rapporteur sent an urgent appeal to the Government of Myanmar referring to his appeal of 16 February 1990, and adding that he had subsequently received information concerning seven other politicians, most of whom were affiliated to the National League for Democracy, and who were reportedly arrested in Yangon on 8 and 11 February 1990. Their names were reported as follows: U Thein Han, U Ne Oo, Dr. Maung Zaw, U Kyaw Min, U Zaw Pe Win (Chairman of the Burma United Democratic Party), U Sein Hla Oo and Dr. Khin Tun. Fears were expressed that these persons were in danger of being tortured or ill-treated, since according to testimonies other persons arrested on political grounds by government security forces have allegedly been tortured or ill-treated.

118. On 11 October 1990 the Government of Myanmar provided the Special Rapporteur with detailed information concerning the charges filed against the persons mentioned in the urgent appeals dated 16 February and 5 March 1990, some of whom were convicted and sentenced and others released. In one of the cases, that of U Ne Oo, there was no record in the list of detainees under that name. It was stated that, in the light of the information referred to above, "it is obvious that there is discrepancy between the allegations concerning those individuals and what happened actually. Should an action be taken against any of them, it was only in the due process of the existing law and there was absolutely no ill-treatment nor any form of torture towards them".

119. On 28 May 1990, the Special Rapporteur sent an urgent appeal to the Government of Myanmar concerning U Nay Min (A) U Win Shwe, regarding whom an urgent appeal was sent to the Government on 23 December 1988. Replies to that appeal were sent by the Permanent Mission of Myanmar to the United Nations Office at Geneva on 13 February and 1 March 1989. According to a recent report U Nay Min, who was currently serving a sentence of 14 years' hard labour, has developed an acute heart condition, allegedly as a result of severe torture by electric shocks. It has been alleged that he was being held in a cold damp cell and that he has been denied the proper medical treatment for his heart condition.

120. On 9 July 1990 the Government of Myanmar informed the Special Rapporteur that U Nay Min (A) U Win Shwe was "in normal good health and serving the sentence passed by the competent court of laws for violation of existing laws". It again denied the allegation that his health condition was very poor due to torture and the harsh conditions of his imprisonment. It added that, even if a prisoner were to develop serious health conditions, it was most unlikely that the case would go unnoticed and unrecorded or the prisoner left without proper and adequate treatment. In cases where a prisoner's health condition required a specialist's consultation and treatment, the prison authorities arranged for such a treatment to be given.

121. On 25 September 1990 the Special Rapporteur sent an urgent appeal to the Government of Myanmar concerning six leading members of the National League for Democracy (NLD) as follows: Kyi Maung (Acting Chairman of the party) and Chit Kaing (Party Secretary), both in their seventies, were said to have been arrested on 6 September 1990 for allegedly having handed over classified documents to unauthorized persons. Ohn Kyaing, Thein Dan, Ye Myint Aung and Sein Hla Aung were said to have been arrested on 8 August 1990 in Mandalay for allegedly sending out false news. It was further alleged that persons

arrested in the country in recent months on political grounds were often subjected to ill-treatment or torture and fears have, therefore, been expressed that the above-mentioned persons are in danger of being ill-treated or tortured.

122. On 10 October 1990 the Special Rapporteur sent an urgent appeal to the Government of Myanmar concerning the following seven persons: Kyi Hla, aged 43, Information Officer of the National League for Democracy (NLD), arrested on 20 September 1990 for publishing anti-Government propaganda; Kyi Win, aged 32, Ye Naing, aged 23, and Ngwe Oo, aged 20, leaders of the Democratic Party for a new society (DPNS), arrested on 12 September 1990 in Kayan Township for possessing anti-Government pamphlets; Seing Hlaing, aged 35, Myo Myint Nyein, aged 38, and Nyan Paw, aged 36, arrested on 9, 12 and 13 September 1990 respectively, for organizing youths and students to create instability in Yangon and for preparing, planning and publishing an anti-Government publication. It was further alleged that persons arrested in the country in recent months on political grounds were often subjected to ill-treatment or torture and fears have, therefore, been expressed that the above-mentioned persons are in danger of being ill-treated or tortured.

123. On 19 October 1990 the Special Rapporteur sent an urgent appeal to the Government of Myanmar concerning U Maung Maung Lay Ngwe, aged 40, an organizer of the National League for Democracy in Yenangyaung, who was arrested on 6 September 1990, reportedly for writing and publicly distributing documents criticizing the Government. Political prisoners who were recently released and refugees who fled Myanmar alleged that political prisoners are often subjected to torture and ill-treatment, and fears were therefore expressed that U Maung Maung Lay Ngwe is at risk of being tortured while detained.

124. On 29 November 1990 the Special Rapporteur sent an urgent appeal to the Government of Myanmar concerning Khin Maung Swe, Chan Aye, Soe Thein, Kyaw Min, Tin Htut, Aung Khin Sint, Sein Hla Oo, Moe Saw U, U Naing Naing, Hla Than, Tin Maung Win, Kyi Aye, Yan Aung, Myint Soe, Than Htaik, Ko Ko Gyi. All the above-mentioned persons are said to be activists or members of the National League for Democracy (NLD) or leaders of the Democratic Party for a New Society (DPNS), who were arrested by the State Law and Order Restoration Council between 23 and 31 October 1990. The Special Rapporteur's attention has also been drawn to the cases of U Laba alias U Wayama, U Kokkhana, Shin Wiseiktha, Shin Yarzeinda and Y Pyin Nya Wuntha, all of them Buddhist monks who were reportedly detained by security forces following a demonstration in Mandalay on 8 August 1990. The Special Rapporteur was also informed that Maung Ko, aged 52, a senior NLD Member, died in a military detention centre north of Yangon, approximately two weeks after being detained. It was reported that the cause of death was suicide, but family members alleged that Maung Ko's body was covered in bruises and that one leg was broken. It was further reported that the military was moving political prisoners from the Myanmar main prison at Insein to detention centres outside Yangon. In that connection, fears were expressed that persons detained in centres outside Yangon may be at a greater risk of torture or ill-treatment by interrogators and warders. In the light of these allegations fears have been expressed that the above-mentioned persons may be tortured while being held in detention.

Letters

125. On 10 August 1990 the Special Rapporteur addressed a letter to the Government of Myanmar informing it of a recent report to which his attention has been drawn, alleging that torture continued to be widespread in the country. Most of the victims were said to be political activists opposed to the Government, mainly in ethnic minority regions where armed opposition groups where active. It was alleged by former detainees that torture was often practised during interrogation, and was meant both as a means of punishment and as a means to extract information or confessions. The security agency said to be responsible for most of the cases of torture during interrogation was the Directorate of Defence Services Intelligence-DDSI, which is the military intelligence agency, also known as MIS or MI. Other State security forces that allegedly resorted to torture or ill-treatment of detainees were the People's Defence Forces and the People's Police Force, in particular two of its branches: the Criminal Investigation Department - CID, and the Special Investigation Department - SID. It was alleged that torture and ill-treatment usually occurred soon after detention, while the detainees were held incommunicado for interrogation purposes. Methods of torture alleged to be practised included beatings, sometimes to the point of unconsciousness, while detainees were often blindfolded or hooded; application of electric shocks to sensitive parts of the body; walking on the knees on sharp gravel; squatting for prolonged periods; rolling of iron or bamboo rods, or bottles, along the shinbones until the skin scrapes off; prolonged standing in water; prolonged exposure to sun or to intense cold; burnings with cigarettes; near drowning through immersion in water; hanging by the feet and having salt, salted water, urine and curry powder applied to open wounds. Methods of ill-treatment included deprivation of sleep, food, water and washing facilities. Psychological torture methods included threats of execution and several forms of pressure. The following detailed cases were reported:

(a) Zaw Min, a physician aged 30, detained on 13 July 1989 at his home in Insein by a group of soldiers and MIS personnel and taken to Ye Kyi Aing detention centre, north of Yangon. According to a former detainee in that centre Zaw Min was, when he last saw him, emaciated and had marks of blows on his body;

(b) Myo Myint, aged 26, a former soldier who had lost his right arm and right leg after he stepped on a mine in 1987. He was reportedly arrested on 8 July 1989 at his home in Thauk-Kyant, north of Yangon and put in the custody of the MIS, for suspected communist affiliation. Despite his serious war injuries he was allegedly badly tortured;

(c) U Soe Myint, aged 50, leader of an opposition group, arrested in mid-May 1989 by MIS personnel in Moulmeingyun. According to a person who saw him in Bassein prison he had been severely tortured.

Nepal

Letters

126. On 6 June 1990 the Special Rapporteur addressed a letter to the Government of Nepal transmitting information alleging that in 1989 the practices of arbitrary arrest without warrants and detention without formal

charges, often leading to police brutality or torture, have increased. According to detainees' testimonies, victims of such practices included Nepalese Christians and members of other religious minorities such as Protestant and Muslim, as well as other Nepalese citizens. The methods of torture included beatings during interrogation, suspension by the feet, threats of torture to extract confessions, and threats of rape or abuse directed at the detainees' friends, family, or relatives. The Detention Centre of Pokhara was frequently reported as a place where torture was being practised. The cases of the following individuals who were allegedly tortured were transmitted to the Government: Tir Bahadur Dewan, Babu Kazi and his son, Ms. Pal Kumari, Ms. Nira Khanal, Mr. Dhruva Thapalia, Mr. Jhalak Subedi, Som Nath Pyasi, Damodar Lamuchhane, Keshav Giri, Man Nath Timilsina, Shakti Upadhyaya and Chandra Bahadur.

Papua New Guinea

Letters

127. On 6 June 1990 the Special Rapporteur addressed a letter to the Government of Papua New Guinea transmitting information alleging that since April 1989 the practice of torture and ill-treatment of detainees, sometimes resulting in death, appeared to occur on the island of Bougainville, in the context of a government campaign against an armed rebel group known as the Bougainville Revolutionary Army (BRA). The situation reportedly deteriorated after the declaration of the state of emergency on the island on 26 June 1989. Most of the victims were said to be suspected militants or supporters of the BRA, and those alleged to be responsible for the abuses were members of the police or military forces. The following cases were reported:

(a) Vincent Onari was detained on 24 November 1989 by members of the Papua New Guinea Defence Force. He was reportedly beaten and then taken to Army Camp 10 at Panguna. According to eyewitness reports Onari, who was semi-conscious as a result of the beating, was thrown out of a military vehicle to the ground, kicked and beaten with rifle butts and then shot four times in the head. Officials at the Asawa General Hospital later confirmed that he had been beaten before being shot dead;

(b) Siang Montoru and Aquila Pinoko were detained by Defence Force soldiers on 21 November 1989. They were allegedly beaten until they were unconscious and were later hospitalized in critical condition;

(c) Aloysius Minitong, a farmer in his mid-forties, was arrested on 7 December 1989 on suspicion of being a member of the BRA. He was first detained briefly at Boku Police Station, where he reportedly received knife cuts requiring stitches and where his knees were beaten until he could not walk. After being transferred to Army Camp 10 at Panguna, he was said to have been beaten and kicked in the head and body until he lost consciousness. He was taken to hospital where eyewitnesses said he could not stand. The next day he was reportedly taken to the Joint Forces Headquarters in Arawa, where he was again beaten during questioning. He was finally jailed at the Arawa Police Station where he was denied any medical attention. Aloysius Minitong died in his cell on 28 December 1989.

Peru

Urgent messages

128. On 5 January 1990, the Special Rapporteur sent an urgent message to the Government of Peru concerning Víctor Taype Zúñiga, President of the Peruvian National Mining Federation, who was arrested on 20 November 1989 in Huancavélica by members of the police. After having been held incommunicado for two weeks at Technical Police Headquarters, Mr. Taype Zúñiga was transferred to Huancavélica Prison, where he is now being detained. While being held at Technical Police Headquarters, he was allegedly severely beaten and tortured with electric shocks. He was also reported to have been forced to sign a statement incriminating himself and compelled to have his photograph taken with sheets of propaganda in favour of the armed struggle.

129. On 11 October 1990, the Special Rapporteur sent an urgent message to the Government of Peru concerning Mr. Constantino Saavedra Muñoz, secretary of the Agricultural Federation, who was arrested by military personnel in his home in the city of Ayacucho on 1 October 1990 and taken to Los Cabitos Military Barracks, where he is being held incommunicado. It has been indicated that he was arrested in July 1987 by civil defence officials and that, when he was released, he had a broken arm and sores on his back from burns made with lighted cigarettes. For this reason, there is concern about the security and physical integrity of Constantino Saavedra Muñoz following his recent arrest.

130. On 24 October 1990, the Special Rapporteur sent an urgent message to the Government of Peru concerning Mr. Victor Taype Zúñiga, President of the Peruvian National Mining Federation. According to information received recently, Mr. Taype Zúñiga was released on 14 March 1990 after the Huancavélica examining magistrate ordered that he should be released and that the accusation against him for advocacy of terrorism should be withdrawn. However, the Huancavélica Prosecutor ordered that the case should be re-opened and issued a new arrest warrant. Since Mr Taype Zúñiga was reportedly subjected to severe torture during his detention in November 1989 at Technical Police Headquarters in Huancavélica, including electric shocks, there is concern about his security and physical integrity as a result of the new arrest.

131. On 12 November 1990, the Special Rapporteur sent an urgent message to the Government of Peru concerning the following persons: Jorge Lozano Vasquez, Alejandro Pinedo Arce, José García Saavedra, Damián Flores Vela, Warren Trigozo García, Cesar Saavedra Grandez, Mauro Flores Sanchez, Edgar Vilcarromero Tangoa, Hugo García Rodríguez, Eleazar García Armas and Javier Tuanama Valera. According to the information received, these persons were arrested between 16 and 21 October 1990 by members of the army and taken to Mariscal Cáceres Military Base in Tarapato, San Martín Province, where they are still being held incommunicado. Concern has been expressed that they might be tortured, since cases of torture reportedly occurred at that military base in the past.

Letters

132. On 6 June 1990, the Special Rapporteur sent a letter to the Government of Peru transmitting information on complaints of cases of torture, as described below:

(a) Américo León Ramírez, aged 30, student. Was arrested by military personnel at his home on 18 April 1989. During his detention, he was reportedly subjected to torture and ill-treatment, such as blows, electric shocks to the ears and death threats. He was taken to Ayacucho General Hospital with a fever and numbness in his feet that prevented him from walking;

(b) Albero López Bautista, aged 39, resident of the town of Pampagrande Huayllay in Ayacucho. Was arrested by army personnel at his home on 5 October 1989 and taken to a barracks, from which he managed to escape on 7 October 1989. According to his testimony, he was arrested by 10 or 15 members of the army, who came into his house armed and hooded and proceeded to tie his hands behind his back and beat and kick him. During his detention, he was reportedly subjected to physical and psychological harassment, received constant death threats and had his hands tied behind his back the entire time;

(c) Gregorio Castellares Robles, Mayor of the Peasants' Community of Carhuancho, San Pedro de Coris district, Churcampa province, Huancavélica department. Was arrested by army personnel on 20 March 1989. As a result of the torture he allegedly suffered during his detention, he had contusions on the wrists, hip bones, lower back and calves; he also lost about 7 kilos and was suffering from anxiety attacks, as stated in the medical certificate of 27 April 1989 provided by Dr. Juan Jara Salcedo at the General Hospital of Cobriza Division, Centromin Peru (the Special Rapporteur received a copy of the certificate);

(d) Dr. Carlos Reaño Carrasco, anaesthetist, was arrested on 16 September 1989 in Cajamarca by members of the National Police. He was reportedly tortured for several consecutive days, both physically and mentally, and threatened that his family would be attacked. As a result of the torture he underwent, his right arm is seriously impaired, with a danger of permanent damage and disability. The case has been reported to the Attorney-General of the Nation (the Special Rapporteur received a copy of a medical certificate dated 28 September 1989).

133. The Special Rapporteur also received copies of medical certificates dated 29 and 30 November 1989 from the following persons: Juan Ancasí Damián, Braulio Zegarra García, Edgar Buzaico Arroyo, Feliz Quispe Balbín, Abdón Acuña Asto and Oscar Pariona Clemente. They are all mine workers from Morococha and La Oroya in Yanli province, Lima department, who were arrested on 4 November 1989 by army personnel. They were allegedly tortured in army barracks in Huancayo on 4 November 1989. According to the medical examinations, they had been subjected to punishment and had injuries to various parts of the body, possible fractures of the arms, bruises and injuries caused by electric burns.

Philippines

Letters

134. On 6 June 1990 the Special Rapporteur addressed a letter to the Government of the Philippines transmitting information alleging that the practice of torture and ill-treatment of detainees was extensive in 1989. It was alleged that such practice was resorted to in order to extract information

and confessions. The torture methods reportedly used included electric shocks, beatings, rape, cigarette burns, water cure and deprivation of sleep. Psychological torture methods allegedly included death threats directed at the detainee or his family, isolation and inflicting torture on victims in the presence of or within the hearing distance of family or friends. It was further alleged that torture often took place during the first 24 hours of detention, which was usually incommunicado. According to one report over 312 cases of torture occurred in the period 1 January to 14 November 1989. It was alleged that at least one out of four persons detained for political reasons had been physically tortured.

135. The Special Rapporteur received a list of 11 detainees who alleged having been severely beaten and subjected to other forms of torture in the period March to May 1989. It was reported that all had been examined by doctors subsequent to the alleged torture and that the findings of the physical examinations confirmed that the persons had been subjected to torture or ill-treatment. Their names, age and places of detention were reported as follows: Honorio Ayroso, aged 21, Rizal Provincial Gaol; Stanley Marvin Pengzon, aged 22, Rizal Provincial Gaol; Marcelito Clemente, aged 31, Rizal Provincial Gaol; Eduardo Bagtas, aged 30, Rizal PC-INP Stockade; Edgardo Mamuntag, aged 24, Angeles City Gaol; Pedro Calilang, aged 42, Angeles City Gaol; Steven Pasion, aged 24, Bataan Provincial Gaol; Wilfredo Pili, aged 36, Bataan Provincial Gaol; Claudio Suangco, aged 23, Bataan Provincial Gaol; Geronaga Malibi, aged 25, Bataan Provincial Gaol; Norberto Murillo, aged 32, PC-CIS Headquarters Camp Crame, Quezon City.

136. In addition to the aforementioned it was reported that Jacinto Manaois, aged 33, a trade unionist, was arrested on 20 October 1989 and taken to the Northern Police District in Quezon City. It was reported that he later died while in police custody, allegedly as a result of torture which included electric shock treatment. The police claimed that Mr. Manaois was killed when he tried to grab the weapon of one of his escorts. According to one report he was shot while he was handcuffed.

137. It was also reported that Romeo Lanso, aged 25, was arrested on 4 May 1989 on suspicion of membership of the NPA (New People's Army) and other security offences. It was alleged that while in custody he was severely tortured, and that as a result he confessed to the charges against him, and had to be hospitalized twice for psychiatric treatment.

138. It was further reported that Isidro de Lima, aged 40, a suspected communist rebel detained at Pasay City Police Headquarters, was forcibly taken out from his cell on 12 April 1990 and was allegedly tortured for almost two days by members of the Capital Regional Command (CAPCOM). Torture included electric shocks. De Lima, who was arrested on 25 March 1989 had alleged having been tortured during the first days of detention.

Republic of Korea

Letters and Government replies

139. On 6 June 1990 the Special Rapporteur addressed a letter to the Government of the Republic of Korea transmitting information according to which hundreds of trade union activists, students and political dissidents

have been detained since April 1989. According to human rights lawyers the two security agencies responsible for the wave of arrests were the Joint Public Security Investigation Headquarters and the Agency for National Security Planning. It was alleged by these lawyers that many of the detainees were being held without warrants of arrests and were being prevented from meeting their relatives and lawyers. This led to allegations by detainees that they were tortured or ill-treated during their incommunicado detention. Reported cases of alleged torture or ill-treatment included the following:

(a) Hwang Chong-su, one of a group of 15 striking workers in Changwon and Masan who, in April 1989, alleged that they had been tortured by police with electric shock batons. Hwang Chong-su allegedly required two weeks of hospital treatment;

(b) Hong Song-dam, an artist and chairman of an artist federation in Kwangju, was arrested on 31 July 1989 for suspected contacts with a North Korean agent and for dissident artistic activity. He alleged having been severely beaten and deprived of sleep. It was later reported that a forensic pathologist, Prof. Lee Yun-song of the Seoul National University, had given evidence to the court supporting the torture allegations;

(c) Chong Ha-su, an artist, was arrested on 4 August 1989. Together with two other artists - Cha Il-hwan and Paek Un-il - he was accused of having painted a mural in South Korea describing the history of the dissident movement in the country, and sending photographs of it to North Korea. Chong Ha-su claimed he had been tortured to force him to confess that he knew that Hong Song-dam (mentioned above) was an espionage agent;

(d) Kim Chong-hwan, aged 23, a student at Koomkin University. On 9 August 1989 he was allegedly abducted by three or four men, who blindfolded and handcuffed him and then questioned him about the whereabouts of two other students. When he replied that he did not know, his abductors, whom he later claimed were military security officers, allegedly tied him to a tree, beat him and then threw him into a hole, shovelled earth on him and threatened to bury him alive. He was released several hours later. A spokesman of the Ministry of National Defence reportedly confirmed on 30 August 1989 that two military intelligence agents had participated in questioning Kim Chong-hwan, but denied the allegation that he had been put into a hole and threatened with being buried alive;

(e) Suh Kyung-won, aged 53, an opposition member of the National Assembly who, on 20 December 1989 was sentenced to 15 years' imprisonment for spying. It was reported that following a visit to North Korea, which he himself reported, in June 1989, to the Agency for National Security Planning (ANSP), Suh Kyung-won was interrogated until 17 July and then transferred to Seoul Prison. It was alleged that during his interrogation period by the ANSP, which lasted for 24 days, he was banned access to his lawyers and relatives and was severely beaten and punched in the face and other parts of the body. In his trial Suh Kyung-won said that the ANSP had forced him to stay awake for 10 days and that the prosecution authorities did not allow him to sleep for more than two hours a day;

(f) Pang Yang-Kyun, aged 34, Suh Kyung-won's political aide, who was sentenced to seven years' imprisonment on similar charges, also alleged he had been ill-treated during his interrogation. He said in his trial that he had been subjected to beatings, death threats and sleep deprivation by the ANSP and the prosecution. He also said that he had been forced under torture to sign a statement agreeing not to disclose his ill-treatment by the ANSP.

140. On 7 September 1990 the Government of the Republic of Korea provided the Special Rapporteur with the following information:

"Hwang Chong-Su. The officers who interrogated Hwang Chong-Su and others deny having used electric shock batons. The other 8 workers among the 15 people, who were interrogated on the same day as Mr. Hwang, stated that they had never been tortured by electric shock batons and that they had not seen other workers being tortured or heard them screaming. On 20 December 1989, the police officers were cleared of the charges due to the lack of evidence as shown above.

For further reference, it should be pointed out that Mr. Hwang stated in his account of charges that he had never been hurt by or medically treated for several forced contacts from electric shock batons and he never presented any medical report with regard to his alleged injury.

Hong Sung-dam. On the day of his being remanded, Mr. Hong clearly replied to the question by the public prosecutor concerning his health that he had no physical problem and that he had never been treated brutally but that he was in good health. The court also rejected the complaint on his alleged torture. The complaint made by the family of Mr. Hong, received by the Seoul District Prosecutor's Office, is now under investigation, the result of which is expected to come out soon.

Chong Ha-Su. Mr. Chong is reported not to have alleged to the prosecution that he had been tortured. Mr. Chong, during the trial proceedings, admitted to facts that constitute a violation of the National Security Law and at the same time Mr. Chong made no reference in court to the alleged torture and brutalities. One would be convinced that there never were any brutalities or torture done to Mr. Chong when reminded of what Mr. Chong told his family and lawyers during his interview with them on 14 August 1989, in the midst of the investigation at the said agency; he said that he had not been forced to make a statement or tortured.

Kim Chong-hwan. The military security officers assert that torture, violence and threats were not made against Kim Chong-hwan; it was later revealed that two of the military security officers, Woo Jae Il and Suk Hee Young, identified by Kim Chong-hwan as his abductors, were at different locations during the said time; if Kim Chong-hwan was indeed pushed into a hole where his abductors allegedly began to shovel earth on him, then his clothes should have been stained with mud, as it rained on 9 August 1989. However, Kang Ik Soon, who saw Kim Chong-hwan during the early hours on 10 August, testified that Kim's clothes had no such stains. Kim Chong-hwan himself acknowledges this point, and on 14 August, five days after 9 August, Kim's father invited certain officers of the military security unit to dinner at his residence, during

which time neither Kim nor any of the members of his family raised the issue of Kim's alleged torture. In the light of the aforementioned, it is difficult to accept Kim's allegations of torture, and on 26 August 1990, Kim Chong-hwan, withdrew his complaint against the military security officers from the Seoul Criminal District Court. Consequently, it was concluded that the present case lacks factual basis for initiation of a criminal proceeding against the named military security officers.

Suh Kyung-won. His allegation of having been tortured seems to be aimed at falsifying the confession he made to the prosecution, allegedly under the pressure of torture. However, a few episodes during the investigation of his case would instantly invalidate such an allegation.

During his interview of 19 August at the Seoul Detention Institution with his attorneys including members of the National Assembly he also clarified that he had never been forcibly administered medication though he did complain about lack of sleep.

On this point, the first adjudication by the Seoul Criminal District Court acknowledges that Mr. Suh had enough sleep during his stay with a public prosecutor for interrogation and that he was interrogated in a free atmosphere. As shown above, the charges made by Mr. Suh concerning the alleged brutalities against him are inconsistent with each other. Furthermore, the statements he made during the investigation turned out to be true, not a false confession. Therefore, the complaint for alleged torture is absolutely unacceptable.

Pang Yang-Kyun. During his interview with the lawyers of the prosecution on 11 August 1989, Mr. Pang is reported to have admitted to the lawyers criminal facts and made clear that he slept about six hours per day and that he was never treated brutally. He also did not specify the brutalities to which he alleged to have been subjected to the prosecution. He also admitted to almost all the charges made against him, which proves that his confession to the prosecution was not a forced or false one."

Saudi Arabia

Letters and Government replies

141. On 6 June 1990 the Special Rapporteur addressed a letter to the Government of Saudi Arabia transmitting a list of some 20 persons who were recently sentenced to amputation of their right arm or hand after having been convicted on various charges such as theft, larceny, gang robbery etc. Among those sentenced to have their right arm amputated was Muhammad Kashi Ayash Bin Zayd, a Yemeni national, who was convicted of robbery and theft. He had his hand amputated on 29 September 1989. The list submitted to the Special Rapporteur also included names of persons sentenced to imprisonment and flogging (up to 800 lashes), for lesser crimes.

142. On 4 December 1990 the Government of Saudi Arabia described the allegations referred to above as "wrong, inaccurate and exaggerated". In particular, regarding the case of the Yemeni citizen Muhammad Kashi Ayash Bin Zayd, it was affirmed that "the statement narrated by the said person is groundless". It was further stated that no sentence had ever been issued in the history of the kingdom of Saudi Arabia to amputate an arm. "The Islamic law stipulates that only the hand is amputated if the accusation is proved and following a confession of the guilty. Moreover, the hand is amputated after several repetitions of the crime and especially of valuables".

Somalia

Urgent appeals

143. On 3 August 1990 the Special Rapporteur sent an urgent appeal to the Government of Somalia concerning Mohamed Ahmed Jama, Zeinab Yusuf Omar, aged 28, Abdullahi Yusuf Omar, (Zeinab Yusuf Omar's brother) aged 30, and 16 unnamed persons. They were reportedly arrested on their arrival at Mogadiscio International Airport on 22 July 1990 after they had been returned to Somalia by the Italian authorities which refused their entry to Italy, and detained at Godka prison. In view of several reports in the past that detainees suspected of opposition to the Government were tortured at Godka prison, fears were expressed that the above-mentioned persons might be at risk of torture and ill-treatment.

Letters

144. On 6 June 1990 the Special Rapporteur addressed a letter to the Government of Somalia transmitting information alleging that Mohamoud Mohamed Mohamoud, aged 18, a student from Mogadiscio, was arrested on 9 or 10 February 1990 by security officers and interrogated, allegedly under torture, about the flight from the country, in July 1989, of his elder brother who was suspected of anti-Government activity. On 11 February, Mohamed Mohamoud was admitted to Digfer Hospital in Mogadiscio in a coma. He died the next day. According to eyewitnesses he had blood coming out of his ear.

South Africa

Urgent appeals

145. On 5 February 1990 the Special Rapporteur sent an urgent appeal to the Government of South Africa concerning Peter Mokaba, President of the South African Youth Congress, who was detained on 27 January 1990 in Seshego township near Pietersburg, reportedly by South African police. Mr. Mokaba was said to be detained under section 29 of the Internal Security Act (ISA), under which a detainee could reportedly be held in solitary confinement for an unlimited period for the purpose of interrogation, without access to lawyers, family or doctors, other than State officials. Mr. Mokaba had previously been detained under Section 29 of the ISA from March 1988 to 25 June 1989 and he subsequently alleged that while he was held in incommunicado detention he was chained, assaulted and tortured by police.

146. On 26 February 1990 the Special Rapporteur sent an urgent appeal to the Government of South Africa concerning eight persons who were arrested in January 1990 and were reportedly being detained in police stations in or near Pietersburg, Northern Transvaal. Their names and other details concerning them were reported as follows: Peter Mabitsela, Donald Madisha (aged 25, arrested on 17 January 1990 in Mahwelereng Township, Potgietersrus), Frans Mathole (arrested on 31 January 1990), Paul Mathole (aged 21, arrested on 31 January 1990), Joseph Manaka, Aubrey Ntsoane (aged 23, arrested on 16 January 1990), Jacob Rapholo (aged 29, arrested on 13 January 1990) and Charles Seakamela (arrested on 19 January 1990). These persons were said to be detained under Section 29 of the Internal Security Act, and fears were therefore expressed that they may be at risk of torture or ill-treatment.

147. On 6 July 1990 the Special Rapporteur sent an urgent appeal to the Government of South Africa concerning Mr. Thabiso Radebe, a member of the Tembisa Youth Congress. He was reportedly arrested in Tembisa Hospital, Kempton Park, Johannesburg, on 18 June 1990. His lawyer was later informed by police that Mr. Radebe was being held under Section 29 of the Internal Security Act. Mr. Radebe had been detained previously between 1986 and 1989, and was attacked and injured twice recently, by unidentified people, on 27 April and 15 June 1990. Fears have been expressed that he may be in danger of being tortured while in police custody.

148. On 18 September 1990, the Special Rapporteur sent an urgent appeal to the Government of South Africa concerning Mr. "Mac" Maharaj, a member of the National Executive Committee of the ANC, who was arrested on 26 July 1990 in Johannesburg, shortly after he returned to the country under the Government-proclaimed indemnity accorded to ANC leaders against the risk of arrest, prosecution and detention. He was reportedly detained under section 29 of the Internal Security Act. Mr. Maharaj had previously served 12 years in prison, from 1964 to 1976. He was allegedly severely tortured in 1964, resulting in a broken vertebra in the neck, a splinter in the skull and the loss of one eye. He was released in 1976 and left the country. Reportedly Mr. Maharaj has been seen on 12 September 1990 in the Saint Eden's Hospital in Durban, in traction and in leg irons. According to one report Mr. Maharaj had to be hospitalized after being subjected to torture during which his head was allegedly banged against a wall. Fears have been expressed that, in the light of his poor physical condition and the renewed allegations of torture or ill-treatment, Mr. Maharaj's life may be in danger.

149. On 16 November 1990, the Special Rapporteur sent an urgent appeal to the Government of South Africa concerning Mangel Panchia, Kaelo Maropefela, Silas Mbipa and Mandla Mgwetjane, who were arrested on 12 or 13 November 1990 in the Mafeking area, Bophuthatswana. According to the source cases of assault against detainees by the Bophuthatswana security police have been frequently reported and fears have therefore been expressed that the above-mentioned persons might be tortured while in detention.

Spain

Letters and Government replies

150. On 13 March 1990, the Government of Spain sent the Special Rapporteur a reply to his letter of 14 November 1989 (E/CN.4/1990/17, para. 138) containing the following information: "The detention of José Askasibar Aperribai took

place when he was expelled from France and turned over to the Spanish authorities as an alleged member of the ETA terrorist group. He was immediately taken to Civil Guard barracks in San Sebastián, El Antiguo district; at no time was he detained in the Intxaurrondo barracks. On 5 October 1987, he was given an examination by the forensic physician of the National High Court. A medical report was issued following the examination. The medical certificate, whose contents were made public, states that Askasibar 'refuses to answer questions about the treatment he received during his detention', and that the physical examination refers to 'good general condition' and slight bruising on the left wrist caused by the rubbing of the handcuffs. 'There is no other type of violence'. On 7 and 8 October 1987, proceedings were initiated for the prisoner's statement and photographic identifications, which he signed after having read them and found them in order, without ever complaining of ill-treatment. At 11.20 a.m. on 8 October, the proceedings and the prisoner were referred to the judge of Central Examining Court No. 1 (National High Court, Madrid), where the statement which was made contained allegations of torture without any details as to what it involved and without any questions or clarifications by Mr. Gorostiza, counsel appointed by the prisoner himself. All this may be clearly explained by the fact that such allegations are frequently made by prisoners when the aim is to nullify a statement which was made voluntarily to officials of the State Security Forces and is incriminating, even if there is no basis in fact for it. Thus, a further medical examination was conducted the same day and the forensic physician of the National High Court issued a medical report, which is also referred to in the above-mentioned records, and as far as could be determined, includes the following: 'His medical condition is normal and, physically, he has scrapes on both wrists which are typical of handcuffs and welts about three or four days old on the left hip bone, without any mark enabling their cause to be determined. He does not have any other type of injuries and is able to dress and undress completely normally without any sign of pain'. The investigating authorities express their agreement and state that the prisoner was never subjected to the treatment referred to in the Special Rapporteur's letter and that they have no knowledge that either Askasibar or any legal representative appointed on his behalf has filed a complaint for ill-treatment in any of the three examining courts in San Sebastián."

151. With regard to Mr. Fernando Egileo Ituarte, the second person referred to in the letter sent by the Special Rapporteur, the Police Department reported that: "According to the communication by the Bilbao Police Headquarters, Examining Court No. 4 in that city took preliminary steps as a result of Mr. Egileo Ituarte's complaint of injuries which were apparently inflicted on him on 14 December 1988 at Arenal Bridge and Navarra de Bilbao Street. At 8 p.m. on 14 December 1988, during the general strike called by a number of trade unions, members of the National Police had to step in to restore public order, which was disturbed when rebellious groups set up barricades and carried out attacks on police officers in the area of Casco Viejo, Arenal and Navarra de Bilbao Street. Order was restored at 9 p.m., when the National Police withdrew. There is evidence that, at the time when the complainant states that he was beaten, all the police officers involved had returned to their base. In the files at Bilbao Headquarters, there is no record of intervention or arrests by any police units at the times when the complainant says that he was attacked. On the orders of Examining Court No. 4 in Bilbao, investigations were conducted to shed light on the facts, with the above-mentioned results.

152. On 10 August 1990, the Special Rapporteur sent a letter to the Spanish Government transmitting information concerning Mr. Henri Parot Navarro, aged 32, of French nationality, who was arrested by members of the National Guard on 2 April 1990 in Seville and accused of collaborating with ETA. He was held incommunicado for five days, first in the Civil Guard barracks in Seville and later in the Civil Guard barracks in Madrid. During this time, he was reportedly subjected to torture and ill-treatment, including beatings, suffocation and being made to stay awake. On 7 April 1990, he was transferred to Carabanchel Prison in Madrid and, on 10 April 1990, to Herrera de la Mancha Prison in Ciudad Real, where he is still being held. In both prisons, he was kept in a small isolated cell and subjected to ill-treatment. According to the sources, Mr. Parot was brought on 7 April 1990 before Central Criminal Court No. 4 of the National High Court, where he complained of the torture and ill-treatment he had suffered. On 11 April 1990, he repeated his complaints to a French judge in the same court.

153. On 10 September 1990, the Spanish Government informed the Special Rapporteur that Mr. Parot Navarro was arrested in Seville on 2 April 1990 during a road check when he was driving a car full of large amounts of explosives and battery clocks to be used as detonators. When he was arrested, he put up a fight and fired a shot, wounding a Civil Guard. It is also reported that: "As stated below by the forensic physician of Examining Court No. 17 in Seville, not only was there no sign that he had been subjected to torture or ill-treatment, but the report expressly recognizes his good physical condition and his statement that he was not ill-treated. On 3 April 1990, he was examined again by the forensic physician of Court No. 4, who found no signs of torture or ill-treatment. According to file No. 7 of 1989 of the above-mentioned Court, a further examination of Parot Navarro by the forensic physician of Court No. 4 on 5 April 1990 showed no signs of torture or ill-treatment. On 6 April 1990, he was again examined by the same forensic physician and he continued to be in good health, without any signs of torture or ill-treatment. At the end of his lengthy statement to the judge of Central Court No. 4 in Madrid, Mr. Parot stated, in reply to the defence counsel, that, while he was being detained, they put a plastic bag over his head, pulled his hair, threatened him and his family with death and gave him a syringe containing AIDS. From the time of his arrest and in accordance with Spanish criminal procedure, he had the assistance of defence counsel. File No. 7 of 1989 of Central Examining Court No. 4 does not refer to the institution of proceedings in connection with the alleged terrorist's statement that he was subjected to ill-treatment. This may be the result of Mr. Parot's way of referring to the ill-treatment, the time at which he did so, the nature of such treatment and the evidence of his good physical condition in the various reports based on the examinations made by the forensic physicians in Seville and Madrid. With regard to the allegation that Mr. Parot was held in a small isolated cell and was subjected to ill-treatment in prisons, the complaint is also not true. As the attached reports show, Parot Navarro never complained of ill-treatment and there is no sign that can be taken as constituting ill-treatment. On the contrary, Parot Navarro is being given preferential treatment and, as a result of a specific suicide prevention programme, he has been recovering from the depression from which he was found to be suffering when he went to prison. This preferential treatment is also obvious from the fact that he is moved from one cell to another so that he will not be bothered by the noise made by the outside guards when they change shifts".

Sri Lanka

Urgent appeals

154. On 6 July 1990 the Special Rapporteur sent un urgent appeal to the Government of Sri Lanka transmitting information concerning Mr. K.A. George, a lawyer and human rights activist from Colombo, who was arrested on 29 June 1990, reportedly for sending information abroad about the human rights situation in the country. He is said to be currently held incommunicado in Bambalapitiya police station in Colombo, and fears have been expressed that he may be subjected to torture or ill-treatment while in detention.

Sudan

155. On 28 November 1990 the Government of Sudan provided the Centre for Human Rights with two lists. The first one contained 345 names of political detainees, their date of arrest (most of them in the second half of 1989) and date of release (from July 1989 to August 1990). The second list contained 21 names of prisoners and detainees released on the occasion of the celebrations of the 21 October 1964 Revolution.

Urgent appeals

156. On 31 January 1990 the Special Rapporteur sent an urgent appeal to the Government of Sudan concerning Yousif Hussein Mohammed Al-Amin, aged 48, a geologist and leading member of the Sudanese communist party, who was detained by the military authorities on 13 January 1990. According to the information received Mr. Hussein, who suffers from heart disease and other serious health problems, was subjected to torture. Fears were expressed that his life was in danger. It was further reported that a number of medical doctors, members of the Sudanese Medical Association, were arrested following strikes in November 1989. One of them, Dr. Mamoun Mohamed Hussein, aged 55, President of the Trade Union Assembly and the Sudanese Medical Association, arrested on 1 December 1989, was allegedly severely tortured and had to be hospitalized. He was reportedly sentenced to death on 10 December 1989. Some of the other doctors arrested following the strikes were the following: Dr. Said Mohammed Abdallah, Dr. el Sheikh Kensh, Dr. Alfateh Mohammed El Sayed, Dr. Ahmed El Teigani El Taher, Dr. Hasan Shehata, Dr. Mohammed Abdel Kader Helal and Dr. Mohy Omar Hamza.

157. On 18 April 1990 the Special Rapporteur sent an urgent appeal to the Government of Sudan concerning the following persons: Major Amnaya, Lieutenant Arkanjelo, Mario Chocho, Adelio Ikwada, Franco Mayo, Martin Odeki, Francis Oliha, Mauro Omodok, Dr. Monytuoc Biong, Arop Madut Arop and Arop Bagat. The first eight of the aforementioned were reported to have been arrested around 20 February 1990 and to have been detained since that date without charge or trial at the army barracks in Juba. The reason for the arrest was believed to be their suspected links with, or support for the opposition Sudan People's Liberation Army (SPLA). Dr. Monytuoc Biong, a medical doctor, was reportedly arrested on 13 March 1990 in Khartoum and was said to be held incommunicado without having been charged with any offence. Some of his relatives were said to be SPLA members. Arop Madut Arop and Arop Bagat, both journalists based in Juba, were reportedly arrested in mid-March 1990, and were being held in Kober prison in Khartoum. It was

alleged that prisoners suspected of supporting the SPLA had been tortured while detained at army barracks. It was further alleged that more than 40 people arrested in November and December 1989 were tortured by members of the security service while being detained in safe houses and interrogation centres in Khartoum.

158. On 20 April 1990 the Special Rapporteur sent an urgent appeal to the Government of Sudan concerning the former Prime Minister, Mr. Sadiq Al Mahdi. It was reported that following his release from Kober prison he was now under house arrest in Al-Riyadh suburb, Khartoum. It was alleged that on 13 April 1990 the house was put under heavy military guard, Mr. Sadiq Al Mahdi's family was ordered to evacuate the house and he was confined to one closed room. It was further alleged that Mr. Sadiq Al Mahdi, who was reportedly in poor health, suffering in particular from serious eye problems, was not allowed to receive visits by his opthalmologist and was being denied medicine, such as analgesics and tranquillizers. He was also allegedly denied food.

159. On 1 May 1990 the Special Rapporteur sent an urgent appeal to the Government of Sudan concerning Alfred Taban, a journalist, who was arrested in Khartoum on 31 March 1980, and has reportedly been held incommunicado, without charge, since that date. Fears have been expressed that he may be tortured while in detention.

160. On 7 May 1990 the Special Rapporteur sent an urgent appeal to the Government of Sudan concerning Abderrahman Farah, a former security adviser who was arrested in late March 1990 for alleged conspiracy to overthrow the Government. It was reported that after his arrest he was detained at Jabal Awliya barracks, but was later taken to a secret detention centre in Khartoum, reportedly located at the former office of the national elections committee. It was alleged that Mr. Farah had been tortured and severely beaten, as a result of which he suffered a serious internal haemorrhage. He was reported to be in a very critical condition.

161. On 15 June 1990 the Special Rapporteur sent an urgent appeal to the Government of Sudan concerning a group of over 20 people who were arrested in Khartoum in early and mid-May 1990 and have since been held incommunicado. Those detained reportedly included former ministers and parliamentarians, university lecturers and medical doctors, most of whom were said to be members of the Umma Party and supporters of the Democratic Alliance. The names of 10 of these persons were reported as following: Abu Zeid Mohamed Saleh, Dr. Bashir Omar, Babiker Digna, Ali Al-'Omda, Mekki Al-Massiba, Dr. Farah Hassan Adam, Dr. 'Abdin Mohamed Zein Al-'Abdin, Dr. Salma Shwaya, Fatma Al-Ginayed, and Dr. Osama Abderrahmane Al-Nur. Information was also received on conditions prevailing in the prison of Shallah, in Dafur Region, where 71 persons, including politicians, trade unionists, lawyers and members of other professional groups, were said to be held incommunicado for several months. It was alleged that the prison was situated in a desert area 1,600 km from Khartoum and that all the detainees were kept in two medium-sized wards. It was further alleged that the quality of food and water was very poor, sanitary conditions were insufficient and medical assistance was unavailable.

162. On 6 July 1990 the Special Rapporteur sent an urgent appeal to the Government of Sudan concerning Sadiq Al-Shami, Omar Muhajir Muhammadine, Abd Al-Muttaleb, Shams Eddine and Mohamed Diya Eddine, members of the Socialist Arab Baath Party in Sudan, who were arrested around 23 May 1990 in Khartoum. They are reportedly currently held incommunicado, without charge, at a secret detention centre near the Army's headquarters. Sadiq Al-Shami had been detained in the past on two occasions, from August to November 1989, and again in December 1989. During the second period he was allegedly severely tortured at a secret detention centre in Khartoum. Fears have been expressed that the five above-mentioned persons may be subjected to torture or ill-treatment.

163. On 26 July 1990 the Special Rapporteur sent an urgent appeal to the Government of Sudan referring to his cable dated 6 July 1990 concerning five members of the Socialist Arab Baath Party in Sudan who were reportedly arrested around 23 May 1990 in Khartoum. The Special Rapporteur has been informed of the complete names of the third and fourth of these persons, which were reported as Abd Al-Muttaleb Mohamed Osmane and Shams Eddine Abdallah Khalil, respectively. In addition to the aforementioned, the names of 14 more members of the same party were reported as being among a group of 46 persons who were arrested since 23 June 1990 in Khartoum and Atbara, in Northern Sudan. Their names were reported as follows: Dr. Mohamed Hassan Pasha, Mohamed Hassan Khalid, Ahmed Abdel Nabi, Salah Mukhtar Al-Khatib, Majdi Abdelmajid, Adel Khalafallah, Mohamed Hamad, Yahya Mohamed Al-Hussein, Ibrahim Mohamed Saleh, Babiker Moussa, Mohamed Ali Daoud, Al-Fatah Al-Mardi, Al-Tijani Hussein and Mohamed Haji. It was alleged that all the members of the group, including the above-mentioned, were being held incommunicado, without charge, at unofficial detention centres in Khartoum, and fears have been expressed that they may be subjected to torture or ill-treatment.

164. On 19 September 1990 the Special Rapporteur sent an urgent appeal to the Government of Sudan concerning Mokhtar Abdallah, a trade union activist, Abdelaziz Mohamed Salmane, a businessman aged 46, and Mohamed Omar Al-Mirghani, a retired senior civil servant in his sixties. It was reported that Mr. Abdallah was arrested in late August 1990 and that Mr. Salmane and Mr. Al-Mirghani were arrested on 4 September 1990 by members of the security services. All three are said to be held incommunicado in a secret detention centre in Khartoum, without having been charged with any offence, and fears were expressed that they may be in danger of being tortured or ill-treated.

165. On 12 November 1990 the Special Rapporteur sent an urgent appeal to the Government of Sudan concerning Professor Moneim Attia, a scientist aged 48, who was arrested on 13 January 1990. It was alleged that he was severely tortured while in detention in a safe house, from the day of his arrest until 6 February 1990. He was then transferred to the Shallah prison, near El Fasher, where he is still being held, reportedly without charge or trial. It was further alleged that conditions in the Shallah Prison, which is located in the desert, are extremely harsh; the quantity of food and water insufficient and the quality, when available, very poor. Professor Attia reportedly went on an unlimited hunger strike on 1 October 1990 to protest his detention conditions, and fears have been expressed that his health and even his life, may be in danger.

Letters

165. On 6 June 1990 the Special Rapporteur addressed a letter to the Government of Sudan transmitting information alleging that over 40 people who were arrested in November and December 1989 had recently been tortured by members of the security service while detained in secret "safe houses" and interrogation centres in Khartoum. The alleged victims included trade union activists, medical doctors, lawyers and human rights activists. The cases of the following individuals, who were allegedly tortured, were transmitted to the Government: Ali al-Mahi al-Sakhi, Magdi Mohammed Suleiman, Kamal Abulgasim, Magoub al-Zubair, Hashem Babiker Tollob, Saleh Ismail, Al-Sadik Al-Shmi, Dr. Mekki Ismail, Mahmoud Mukhtar and Tarik Al-Sheikh.

167. It was further reported that several medical doctors, including Dr. Gaafer Mohammed Salih, Dr. Gamal Abdallah, Dr. Babiker Mohammed Badri, and Dr. Mohammed Al-Hassan Hamid, had been arrested and tortured in the wake of a strike called by the banned Sudanese Medical Association in November 1989. The doctors were allegedly tortured in a secret place and then transferred to Kober prison.

168. In addition to the aforementioned, the Special Rapporteur received a list of 37 members of the Sudanese Professional and Technician Trade Unions Federation who were arrested during the period mid-October 1989 to mid-January 1990, and who were allegedly tortured while in detention. Their names were reported as follows: Dr. Mamoun M. Hussein, Dr. Sayed M. Abdalla, Dr. M.A Elgadir Hilal, Dr. Hamouda Fateh Errahman, Dr. Elshiekh Kenaish, Dr. Angog Gorden, Dr. Tarig Ismaïl, Dr. Yahia Omer Hamza, Dr. Babiker M. Badoi, Dr. Gamal Al Rahman Sid Ahmed, Eng. Hashim Mohamed Ahmed, Eng. Ibrahim Nasreddin, Eng. Saleh Al Rahman El Nagib, Eng. El Amin Suliman Alalla, Eng. Alalla Beshir Abu Sag, Eng. Alalla El Sunni, Mr. Nasr Eddin Nur Eddaim, Mr. Al Shakh El Khidir, Mr. Al Galil M. Hassan, Mr. Tariq El Sherkh, Mr. Al Moniem M. Salih, Mr. Gasim M. Alalla, Dr. Mansour Ishag Israil, Dr. Nasri Morgos, Dr. Nasr M. Hussein, Dr. Al Rahmen El Rashid, Dr. Farouk M. Ibrahim, Dr. Kamal Al-Rashid, Eng. Abdel Kabir Adam Abdel Kabir, Dr. Ahmed Abdel Mula, Dr. Medani Ahmed Isa, Dr. Khalid Yagi, Professor Riadh Bayumi, Dr. A. Rahman El Zaki, Dr. Khalil El Dareer, Dr. El Fatih Omer El Sid and Dr. El Fatih Malik.

169. It was further reported that Dr. Ali Fadul, aged 35, member of the Sudan Doctors Union, who was arrested in March 1990, has recently died in prison, allegedly as a result of torture.

Syrian Arab Republic

Urgent appeals and Government replies

170. On 12 January 1990 the Special Rapporteur sent an urgent appeal to the Syrian Government concerning four Palestinians who were reportedly arrested by the Syrian Security Forces in Lebanon and were currently in detention in Syria. Their names were reported as follows: General Hassan Dib Khalil (also known as Abu Ta'an), arrested in the Tripoli region in 1983; Colonel Fayez Arafat, arrested in Beirut in November 1985; Lieutenant Colonel Diab Muhammad Mustafa (also known as Abu Fateh), arrested in Beirut in July 1985; and Muhammad Dawud (also known as Abu Dawud), arrested in 1985. They have

reportedly been detained without charge or trial in the military interrogation branch in Damascus. According to the information received all four were suffering from injuries, allegedly resulting from torture and from ailments contracted as a result of prolonged detention and poor prison conditions. In particular, it was reported that Diab Muhammad Mustafa was suffering from septicaemia (blood poisoning) and that his life was feared to be in danger. It was also alleged that all four had been denied medical treatment, as well as family visits since their arrest.

171. On 28 May 1990 the Special Rapporteur sent an urgent appeal to the Syrian Government concerning Samir Haddad, a civil engineer aged 33, and Youssef Ghaith, a student aged 27. Both were reportedly arrested at the end of March 1990 in Yabrud (Al-Nabk), north of Damascus, by members of the political security force. Both were reported to be held at present in unknown detention centres. Samir Haddad was reportedly admitted to hospital in Damascus in a grave condition due to an acute kidney failure. Serious concern has been expressed regarding both men's physical integrity following reports that another man who was arrested with them, named as Munir Fransis, a civil engineer aged 30, died in Al-Muwassa'a civil hospital in Damascus on 14 or 15 April 1990 after suffering internal bleeding, allegedly as a result of torture.

172. On 27 July 1990 the Government replied that the competent authorities have indicated that the two above-mentioned persons were arrested on security grounds and have been duly referred to the competent courts.

Turkey

Urgent appeals and Government replies

173. On 10 January 1990 the Government of Turkey sent a letter to the Special Rapporteur in reply to his urgent appeal dated 11 December 1989 (E/CN.4/1990/17, para. 162), providing detailed information on the circumstances of arrest and charges against the persons mentioned in the appeal (except for Musa Erdogan, who was not known to the relevant security authorities), and several others who were not mentioned in the appeal but were also taken into custody on similar charges. It is affirmed that following a thorough examination of the situation of these persons it was established that they had not been subjected to any form of ill-treatment.

174. On 24 January 1990 the Special Rapporteur sent an urgent appeal to the Government of Turkey concerning nine persons, six women and three men, who were detained on 9 January 1990 by members of the security forces in Ankara, and have since been held in incommunicado detention at Ankara police headquarters. The female detainees were reported to be members of the Association of Democratic Women (DEMKAD). Their names were reported as follows: Hatice Arikan (President of Demkad), Meryem Topcu, Solmaz Pekin, Gamze Unal, Zehra Pekin and Aytul Yaganoglu. The three men were Ufuk Gurbuz, Yavuz Kilic and Metin Turan. It was alleged that the detainees had been interrogated under torture, particularly during the first days of detention. It was further alleged that the male detainees in particular had been subjected to severe torture. Ufuk Gurbuz, who was said to be suffering from a kidney disease, was allegedly stripped naked, hosed down with cold water and given electric shocks.

175. On 22 March 1990 the Government of Turkey provided detailed information about the past activities of and the present charges against the nine above-mentioned persons. It was affirmed that the competent authorities had thoroughly examined the allegations concerning these persons and had established that they had not been subjected to any form of ill-treatment while in custody. These findings were reportedly confirmed by medical reports.

176. On 12 February 1990 the Special Rapporteur sent an urgent appeal to the Government of Turkey concerning Ahmet Alkan, Mehmet Kulaksiz and Omer Cakmak. All three were reportedly detained at the end of January 1990, presumably in connection with suspected membership of the Kurdish Workers' Party (PKK), and have since been held incommunicado at Diyarbakir Police headquarters.

177. On 15 March 1990 the Government of Turkey informed the Special Rapporteur that Ahmet Alkan and Mehmet Kulaksiz were brought before the Public Prosecutor of the Diyarbakir State Security Court on 8 February 1990 and released after the audience pending trial. Omer Cakmak was neither taken into custody nor interrogated. It was affirmed that the competent authorities had thoroughly examined the situation of the two ex-detainees and had established that they had not been subjected to any form of ill-treatment while in detention. Those findings were reportedly confirmed by medical reports.

178. On 5 March 1990 the Special Rapporteur sent an urgent appeal to the Government of Turkey concerning Sirvan Sasar, aged 20, and Metin Aytas. The two were detained in Istanbul on or around 13 February 1990 and were later transferred to Tunceli police headquarters, in Eastern Turkey, where they were reportedly being held incommunicado and interrogated on suspected illegal political activity in the province. It was reported that Tunceli was currently under a state of emergency, which made it possible to extend the initial detention period before being formally charged or released for up to 30 days.

179. On 29 March 1990 the Government of Turkey provided the Special Rapporteur with detailed information about the past activities and the criminal record of the two above-mentioned persons. It was affirmed that the competent authorities had thoroughly examined the allegations concerning these persons and had established that they had not been subjected to any form of ill-treatment while in detention. Those findings were reportedly confirmed by medical reports.

180. On 6 July 1990 the Special Rapporteur sent an urgent appeal to the Government of Turkey concerning the following persons: Muzaffer Tekes, Guzel Ak, Ramazan Karaarslan, Ramazan Kahramaner, Sukru Kahramaner, Aziz Karakas, Mehmet Demirel, Mehmet Diren, Zeki Budak, Ahmet Atesli, Seyfettin Dilekce, Talip Nusral and Zulkuf Ozer. It was reported that the above-mentioned, and several other persons, were detained in Diyarbakir and Silvan during the night of 24 to 25 June 1990, apparently in connection with their activity for a magazine called Medya Gunesi. They are reportedly currently held incommunicado either in Diyarbakir police headquarters or at the headquarters of the "Anti-Riot Police" in Diyarbakir, and fears have been expressed that they might be tortured in order to extract a confession that they were members of an illegal organization.

181. On 3 August 1990 the Government replied that the 13 persons concerned were taken into custody in Diyarbakir and Silvan during operations carried out in relation with the activities of the "terrorist organization called PKK". All were treated in accordance with the legislation and released by the Diyarbakir State Security Court after the completion of investigations. "The competent authorities have established, after thorough examination, that the persons in question have not been subjected to any form of ill-treatment while in detention. These findings are confirmed by medical reports."

182. On 26 July 1990 the Special Rapporteur sent an urgent appeal to the Government of Turkey concerning the following persons: Hasan Beksek, M. Emin Kardes, Ismail Ay, Hanifi Yildiz, Zahit Bozaslan, Omer Kaplan, Resat Tunc, Abdullah Soysal, Kenan Kizil, Huseyin Ekmen and Abdulcelil Kaplan. The above-mentioned persons were reportedly arrested on 19 July 1990, together with several others, including former political prisoners, and are being held incommunicado either at Diyarbakir police headquarters or by the Anti-Riot Police in Diyarbakir. Fears have been expressed that they may be interrogated under torture.

183. On 20 November 1990 the Government of Turkey provided the following information about the situation of the above-mentioned persons: Zahit Bozaslan and Resat Tunc were released on 1 August 1990. "Reports of the Diyarbakir Forensic Medical Department confirm that (they) were not subjected to any kind of ill-treatment under detention and interrogation. None of (them) filed a complaint against the relevant authorities for having been subjected to torture. As regards Emin Kardes, Abdullah Soysal, Ismail Ay, Hasan Beksek, Omer Kaplan and Huseyin Ekmen (of whom the latter was released on 20 July 1990, and the others were charged), all were duly examined by doctors. Medical reports confirm that their physical and mental integrity was not offended". None of them filed a complaint or made a statement to the contrary. Hanifi Yildiz was released on 3 August 1990. Kenan Kizil and Abdulcelil Kaplan are at large, and are sought by the police for alleged connections with terrorist organizations.

184. On 13 August 1990 the Special Rapporteur sent an urgent appeal to the Government of Turkey concerning the following persons: Siddik Tan, Abdulhadi Celik, Metin Tan, Rezan Tan, Emin Ekinci, Emin Ergin, Salih Aktan, Emin Guven, Zeynel Abidin Celik, Mehmet Tasan, Ramazan San, Mahmut Atlir, Faysal Celik, Hayrettin Celik and Adem Gokmen. The first two aforementioned persons were reportedly arrested on or around 18 July 1990. Their detention period was reportedly extended on 26 July 1990 for another 15 days. All the others, together with another five detainees whose names were not reported, were reportedly arrested on or around 31 July 1990. All were detained in Batman and were later taken to Siirt Regimental Gendarmerie Headquarters, where they have been held incommunicado. It was alleged that in recent years many of the detainees named above had been subjected to torture and fears were therefore expressed that they may be interrogated under torture.

185. On 20 November 1990 the Government of Turkey provided detailed information about the following persons: Siddik Tan, Metin Tan, Rezan Tan, Abdulhadi Celik, Emin Ekinci, Emin Ergin, Salih Aktan, Ramazan Sait, Mehmet Tastan, Mehmet Atlig, Faysal Celik, Hayrettin Celik, Adem Gökmen, Hasan Tiftik, Muhittin Tekin and Nedim Kaya (as to the other two persons mentioned in the urgent appeal, Emin Guven and Zaynel Abidin Celik, it was

stated that "no person bearing one of these two names was detained"). Two of the above-mentioned persons, Siddik Tan and Hasan Tiftik, were arrested and charged. Charges were also filed against six others, who were released pending trial. The charges against the remaining eight were dropped. It was stated that "as confirmed by medical reports, none of the above-mentioned persons was subjected to ill-treatment while in detention. The competent authorities have not received from these persons any complaint of ill-treatment."

186. On 28 November 1990 the Special Rapporteur sent an urgent appeal to the Government of Turkey concerning Imam Fidan, Nazam Celikler and Mustafa Eser (the latter two were reported to be the Secretary and the Chairman, respectively, of an association called Karder), who were detained in their homes in Istanbul by the police on 14 November 1990 and are reported to be held incommunicado at Istanbul police headquarters. It was reported that their lawyer was refused access to them in spite of a permission granted to him by a prosecutor to visit his client. The Special Rapporteur's attention has also been drawn to the case of Ibrahim Sahin who was detained on 16 November 1990 and was reportedly seen being beaten by several police officers during his detention. He had reportedly been imprisoned and tortured on numerous previous occasions. In addition to the aforementioned, several other persons were reportedly detained in Istanbul on the same dates and are also said to be held incommunicado at Istanbul police headquarters. Their names were reported as follows: Imam Dogus, Ibrahim Dogus, Ali Dogus, Nurten Demir, Ali Tasozu, Mithat Zafer, Nihat Ozcan, Zaynep Polat, Leyla Polat and Sengul Mert. Fears have been expressed that the above-mentioned persons might be subjected to torture during interrogation.

Letters and Government replies

187. On 5 January 1990 the Government of Turkey sent a letter to the Special Rapporteur in reply to his letters dated 19 April, 19 July and 14 November 1989 (E/CN.4/1990/17, paras. 154, 157 and 161 respectively).

(a) With regard to the case of Ali Kent (para. 154) the Turkish Government provided the following information: "The relevant Turkish authorities have carefully examined the allegation of ill-treatment concerning Mr. Ali Kent. They have observed that the allegation did not contain any information on the real motives behind the imprisonment of Mr. Ali Kent and attempted to distort the facts by raising irrelevant and unfounded claims. Mr. Ali Kent has been sentenced to 15 years of heavy imprisonment because of treason to national security. ... The case of Ali Kent has been dealt with in conformity with the existing laws. However, the Government is not in a position to disclose further information, because of the confidential character of the case";

(b) With regard to the cases transmitted by letter dated 19 July 1989 (para. 157) the Government informed the Special Rapporteur that: 31 persons (including 20 whose names were mentioned in the Special Rapporteur's letter) were taken into custody on serious charges including the wounding of a police officer, participation in armed criminal conspiracy and opening fire in public places. Six persons who have been detained under custody from 15 to 22 May 1989 were arrested in accordance with a Court decision; other persons were released, pending further investigation, and the other accused persons

were acquitted. "The competent authorities have thoroughly examined the situation of the above-mentioned persons and have established that they have not been subjected to any form of ill-treatment";

(c) With regard to the cases transmitted by letter dated 14 November 1989 (para. 161) the Government provided the following information:

"Mr. Ahmet Cantay was sought since 1986, for affiliation to and participation in the activities of an outlawed organization. He has been caught on 18 September 1989 in Kapikule border gate while leaving Turkey. He has been taken into custody and transferred to Ankara Security Department. After the completion of the preliminary investigation, he has been brought before the Ankara State Security Court where the Public Prosecutor decided to release Mr. Ahmet Cantay, pending trial.

Mr. Ahmet Cantay has been taken through a medical examination by the Forensic Medicine Institute, as the result of which no indication of ill-treatment has been found.

As regards the four other persons mentioned in the Special Rapporteur's letter, more detailed information is needed on the identity of persons involved as well as on the place where the alleged cases of mistreatment have occurred, in order to carry out the necessary investigation";

(d) As regard the case of Messrs. Mehmet Yalçinkaya and Hüsnü Eroglu, referred to in the same letter (para. 161), the Government provided a copy of a letter it sent to Mr. A. Wako, Special Rapporteur on Summary or Arbitrary Executions, who had also inquired about these persons. Relevant excerpts of that letter read as follows:

"Messrs. Mehmet Yalçinkaya and Hüsnü Eroglu are two of the inmates who tried to escape from the Eskisehir Prison by excavating two tunnels 3-4 metres below ground of 30-40 metres length. The authorities have discovered these tunnels on 22 June 1989 and decided to temporarily transfer the inmates to other prisons.

On 29 June 1989, the inmates in question, including Messrs. Mehmet Yalçinkaya and Hüsnü Eroglu, launched a hunger strike .... The prisoners continued the hunger strike at the prison to which they had been moved. It is regrettable that two losses of life (Mehmet Yalçinkaya and Hüsnü Eroglu) occurred during this hunger strike which lasted 52 days.

It is alleged that the prisoners in question had been transported to the Aydin Prison under harsh conditions. The doctors examined the said persons prior to their departure from the Eskisehir Prison and established that they had no health problem which could prevent them from being transported to the Aydin Prison.

The inmates, including the two persons in question were taken to the Aydin Prison in usual transportation vehicles. The convoy was escorted by an ambulance carrying two physicians who examined the inmates several times on the way to Aydin. No case of mistreatment occurred during the transportation.

A team composed of four qualified physicians made a thorough post-mortem examination and subsequently prepared an autopsy report where the following is stated: 'The death of Mr. Yalçinkaya and Mr. Eroglu has been the result of a state of shock and coma. This has been caused by dehydration and ketosis related to hunger and thirst'".

188. On 6 June 1990 the Special Rapporteur addressed a letter to the Government of Turkey transmitting information alleging that torture and ill-treatment of detainees and prisoners, especially those who have been charged with political crimes, continued to occur in Turkey on a large scale. It appeared from testimonies given by former detainees and prisoners in the past year that the use of torture has not been sufficiently curbed despite legislative and constitutional measures designed for that purpose. In addition, medical evidence indicated that several prisoners have died as a result of treatment inflicted upon them by police or security forces. It was alleged that prisoners were often subjected to various kinds of beatings including "falaka", beating of the soles of the feet, and beating of the genitalia. Prisoners have also allegedly been subjected to electric shocks, suspension, rape, sleep deprivation, hosings with pressurized ice-cold water, and dousings with raw sewage. Furthermore, it was reported that detainees, including children, were often forced to listen to the torture of family members. Recent reports indicated systematic and consistent use of torture at the Ankara Police Headquarters, the First Branch of the Istanbul Police Headquarters, the Kahramanmaras Police Headquarters and the Mersin Police Headquarters. The following detailed cases of alleged torture were received by the Special Rapporteur:

(a) Mazhar Kara, a student association activist in Diyarbakir, was detained on 12 April 1989 and taken to the political police at Diyarbakir Police Headquarters. He later alleged having been tortured the same day by the Anti-Riot Police. The alleged torture included death threats, beatings, squeezing of testicles, electric shocks, suspension by the wrists with arms tied behind the back and being hosed down with pressurized cold water. While appearing before the Diyarbakir State Security Court on 15 May 1989 Mazhar Kara told the court that he had been interrogated under torture and forced to sign a statement without having read it. On 16 June 1989 he was sentenced to a prison term. On 28 September 1989 the Appeal Court quashed the sentence and ordered a retrial, on the grounds, inter alia, that his statement to the police had been taken under force;

(b) Sixteen people who were detained in an operation against alleged members of the illegal Turkish Revolutionary Communist Party conducted between 2 and 6 February 1989, were allegedly subjected to torture, which was said to have taken place at the First Branch Istanbul Police Headquarters. Mehmet Songul, Bektas Ozkan, Ihsan Irmak and Fuat Akyurek were said to be among those who had allegedly been tortured;

(c) The Special Rapporteur has also received information that numerous people suspected of being members of the Turkish Communist Party were detained and tortured at the Kahramanmaras Police Headquarters in early 1989. Two of those detained, Gazi Eke and Mustafa Deprem, have testified that they had been subjected to electric shocks, suspension and beatings. Gazi Eke testified that he had received beatings to the head and had since suffered from epilepsy. Another detainee, Oguz Yaman, was detained at Kahramanmaras and transferred to the Mersin Police Headquarters where he and his wife were both allegedly subjected to torture;

(d) In addition to the aforementioned, it was reported that on 18 July 1989, Seyhmus Orhan of Yoncali was detained in the fields near Yoncali and was later allegedly killed under torture at the Command of the 118th Gendarmerie Regiment. It was further alleged that the authorities shot him after his death in order to claim that he was killed while trying to escape.

189. On 6 November 1990 the Government of Turkey provided the Special Rapporteur with detailed information concerning the aforementioned persons, including their date of detention, the charges against them and their physical condition following their alleged torture. The communication contained the following information:

(a) Mazhar Kara was released on 28 September 1989 as a result of a decision by a court of appeal;

(b) Mehmet Ozkan, Songul Ozkan, Bektas Ozkan, Ihsan Irmak and Fuat Akyürek were arrested on 16 February 1989. "Upon complaints, the Public Prosecutor of Istanbul initiated an investigation against the security officials concerned. He has concluded that allegations were unfounded and that further action was not needed. Medical reports which were duly prepared attest to the fact that the said persons had not been mistreated under detention";

(c) Gazi Eke, Mustafa Deprem and Oguz Yaman: "the said persons claimed before the court that they had been tortured in detention. On 16 September 1989 the Public Prosecutor of Kahramanmaras opened an investigation on the conduct of the officials who had interrogated these persons at Kahramanmaras Police Headquarters. The investigation was completed on 19 April 1989 with the decision that there were no grounds for a judicial proceeding. Medical reports certify that the plaintiffs had not been subjected to any kind of ill-treatment while in detention and under interrogation. The results of this investigation were challenged by the persons in question through an objection submitted to the Gaziantep Criminal Court. The case was re-examined by the said court which consequently reached the same conclusion on 16 August 1989. The persons in question made another application to the Public Prosecutor of Gaziantep. The said office duly looked into the allegations and, on 11 December 1989, decided that there was no basis for further action";

(d) Seyharuz Orhan was seriously wounded "in an exchange of fire between the security forces and terrorists on 18 July 1989 near the Yoncali village of Hakkari" ... "He later died in the Hakkari State Hospital. The autopsy report of the hospital shows that he did not die because of mistreatment. Nevertheless, the allegations have been referred to the competent authorities who are in the process of conducting the necessary investigation".

190. On 15 October 1990 the Special Rapporteur addressed a letter to the Government of Turkey informing it that his attention has been drawn to a recent report containing, inter alia, detailed descriptions and testimonies of alleged victims of torture in various towns and regions during the period March 1989 to June 1990. Most of the allegations concerned torture or ill-treatment of detainees while they were being held incommunicado in police custody, soon after their detention. Most of the alleged victims were suspected of membership of or activity for banned political groups (such as "Devrimci Sol", "Devrimci Yol", the Turkish Revolutionary Communist Party-TDKP and the Turkish Workers and Peasants' Liberation Army-TIKKO). Alleged methods of torture included severe beating on various parts of the body, including "Falaka", or beating on the soles of the feet, suspension by the arms in the form of a crucifix, electric shocks applied to sensitive parts of the body, squeezing of testicles, spraying of sensitive parts of the body with ice-cold water from high pressure hoses, sexual assaults, as well as psychological torture such as threats of death.

191. With regard to the situation in the Turkish Kurdish provinces, it was alleged that torture was often applied not only to persons suspected of political offences but also to members of their family. It was further alleged that the security forces sometimes rounded up the population of entire villages in that region, while searching for members and supporters of guerrilla groups, and beat or ill-treated them. Such incidents were reported in the villages of Darusu, in Van province, Bakiran in Lice district, and Kizik.

192. In mid-April 1990 soldiers reportedly arrested 16 people belonging to the Ayalp family in the village of Kiragli, in Bozova/Urfa. They included four minors, Sait Ayalp, 16, Bekir Ayalp, 14, Cengiz Tuncer, 16, and Abdullah Ayalp, 16. It was alleged that they had been tortured. Later, three members of the family were released and the others were taken to Diyarbakir prison.

193. The cases of the following individuals, who were allegedly tortured while in police custody, were transmitted to the Government: Solmaz Karabulut, Fatma Ozyurt, Haydar Söylemezoglu, Yusuf Ali Yildiz, Eyüphan Baser, Haci Yildiz, Lütfü Demirkapi, Erol Bektas, Hakan Korkmaz, Cemal Gulmez, Gülay Zengin, Gültekin Gülbahar, Ali Aziz Kacar, Mehmet Tok, Burhan Caglar Usta, Ali Atalay, Ahmet Akyüz, Ibrahim Turk, Sürkrü Töre, Vedat Celik, Seref Kasikci, Kubilay Selcut, Tuna Ozdamir, Selami Nazlim, Murat Karayel, Ismail Söumez, Mustafa Gül, Memduh Aydogan and Muharram Ozkan (all of them activists in a workers organization known as "Emekçiler Dernegi"); Ali Aslan and Mehmet Torus, co-owner and editor-in-chief, respectively, of a magazine called "Hedef", Bülent Solgun, Nuriye Akbaba, Zehra Pekin, Ufuk Gürbüz, Mahmut Sahindogan, Hasan Sahindogan, Murat Ceviz, and Sendar Cekic Abasoglu. (It may be noted that, with regard to Zehra Pekin and Ufuk Gurbuz, the Special Rapporteur had sent an urgent appeal on 24 January 1990, and that the Government replied on 22 March 1990 that the two had admitted being members of DEMKAD, and that the allegations of torture had been thoroughly examined by the competent authorities and it was established that they had not been subjected to any form of ill-treatment while in custody. It was further affirmed that these findings were confirmed by medical reports. However, the information subsequently received by the Special Rapporteur contained the detailed testimonies of the two persons, which appear to contradict the Government's affirmation).

194. It was further reported that Recep Demir and Aysenur Camlikaya were arrested on 1 September 1989 after Demir's alleged involvement in an armed clash in which an officer of Izmir police was killed and Demir was injured. According to a testimony by Aysenur Camlikaya, who was Demir's girl-friend, both were tortured, including electric shocks applied to Demir's wounds and to her, while she was stripped naked. Demir later died. Aysenur Camlikaya filed a formal complaint on 25 December 1989 alleging that Demir had been killed under torture.

195. On 3 December 1990 the Government of Turkey provided the Special Rapporteur with detailed information concerning most of the cases referred to above. The following pertinent details were given regarding the cases of Solmaz Karabulut, Fatma Ozyurt, Yusuf Ali Yildiz, Eyuphan Baser, Haci Yildiz, Lutfu Demirkapi, Erol Bektas, Mesut Hakan Korkmaz, Gulay Zengin, Gultekin Gulbahar, Ali Aziz Kacar, Abdullah, Fazil, Sait, Muharrem, Ibrahim, Bekir, Mustafa, Hasan and Mehmet Ayalp, Bulent Solgun, Zehra Pekin, Hasan Sahindogan, Mahmut Sahindogan, Murat Ceviz, Burhan Caglar Usta, Ali Atalay, Ahmet Akyuz, Sukru Tore, Vedat Celik, Seref Kasikci, Kubilay Selcuk, Tuna Ozdemir, Zinnut Acar, Mikail Acar, Sait Atalay, Yasar Cevik, Naif Simsek, Zeynep Coskun, Ali Aslan and Mehmet Tonis: in all the above-mentioned cases the torture allegations were investigated and it was established that those persons had not been subjected to torture or ill-treatment. In some of these cases public law suits had been filed against officials allegedly responsible for abuses and trials were held but the officials were acquitted. In several cases (Haydar Soylemezoglu, Mehmet Tok, Nuriye Akbaba, Ibrahim Turk and Aysegul Camlikaya) public law suits which were filed against the officials concerned were still continuing. As regards the case of Serdar Cekic Abbasoglu who had been arrested for theft "on 4 June 1990 he was found dead in his bed inside the prison. The Prosecutor immediately initiated an investigation, which was further intensified upon complaints. No evidence of trauma could be found as a result of the autopsy. No trace of poison could be detected in the beverages and in the food found in the room of the deceased. Histopathological analysis of internal organs revealed no sign of ill-treatment or induction of extraneous agents into the body. Medical doctors established the cause of death as heart failure and aspiration insufficiency resulting from defects in the coronary artery. Consequently the Public Prosecutor decided on 4 September 1990 that there was no ground for further action". With regard to Recep Demir, a terrorist known to have perpetrated 11 murders, including that of a policeman, he escaped from prison after his conviction. "He opened fire on the security officials who found him and demanded his surrender. He was heavily wounded as a result of the ensuing exchange of fire. He later died at the hospital to which he was taken for treatment. The medical report confirmed that his death was due to the wounds inflicted by a security official during the above-mentioned armed clash. The case was also investigated by the Public Prosecutor concerned who concluded on 20 September 1989 that allegations of death by torture were unfounded. Upon complaint a second investigation was carried out. The conclusion reached on 12 February 1990 confirmed that of the first investigation". As regards Ufuk Gurbuz, no complaint was ever filed with the competent Turkish authorities by that person. Regarding the incident in Kizik, there is no village bearing such name. Should the correct name be given, an investigation will be carried out. Regarding the case of Cemal Gulmez, such a name did not appear in the records of the competent authorities.

Union of Soviet Socialist Republics

Letters and Government replies

196. On 15 October the Special Rapporteur sent a letter to the Government of the Union of Soviet Socialist Republics concerning the following persons:

(a) Alexander Alexandrovich Goldovich, aged 43, a physicist, imprisoned since 1985 and currently held in a labour camp in Perm. It was alleged that he had been severely ill-treated between 22 January and 9 April 1990 and that his state of health was critical;

(b) Anatoly Alexandrovich Matvyenko, aged 34, was allegedly forcibly sent to a psychiatric hospital in 1984; he escaped in 1985 but was rearrested and sentenced to eight years' imprisonment under a strict régime, which he served in a camp in Kharkov. According to information received, he was recently sent to Volnyansk psychiatric hospital and then transferred to an unknown detention centre. This reportedly followed the sending of a letter by inmates held in the Kharkov camp to the Ukrainian authorities, complaining about ill-treatment and harsh detention conditions in the camp.

197. On 3 December 1990 the Government of the Union of Soviet Socialist Republics provided the Special Rapporteur with detailed information on the two cases referred to above. As regards Mr. Goldovich, it was affirmed that "there have been no unlawful actions or breaches of the law in his regard. His state of health is satisfactory. On 2 October 1990, a medical investigatory board found him to be entirely fit for work". As for Mr. Matvyenko, details were given concerning the charges against him, his trials and sentences. It was stated that "while serving his sentence, Matvyenko has twice (1987 and 1989) undergone treatment in the Republican Psychiatric Hospital. He is currently in a corrective-labour establishment in Kharkov oblast. On 26 January 1990, criminal proceedings were instituted against him for malicious disobedience of the orders of the authorities of the corrective-labour establishment. On 29 September 1990, Matvyenko was found by psychiatric examination to be of sound mind and was diagnosed as an excitable psychopath."

Venezuela

Letters and Government replies

198. On 6 June 1990, the Special Rapporteur sent a letter to the Government of Venezuela transmitting information that, following the wave of protests and incidents which occurred in Caracas in late February and early March 1989, some persons, primarily student leaders and social activists, were arrested and reportedly subjected to torture and ill-treatment. Such practices were said to have occurred at the barracks of the Military Intelligence Department (DIM) in Caracas, the barracks of the Intelligence and Prevention Services Department (DISIP) and the Fuerte Tiuna Military Barracks. The methods of torture allegedly used included blows to all parts of the body, electric shocks, covering the head with a plastic bag until suffocation occurred, submerging the head in water and forcing persons to shower with ice-cold water for 10 minutes. Psychological torture, such as mock execution, was also allegedly used. According to the same source, the conclusions of the medical

examinations made in May 1989 indicated that the symptoms and injuries described by the victims were consistent with the methods of torture to which they were reportedly subjected. Some of the victims confirmed that a doctor was present and allegedly helped in the interrogations during which they were tortured. Information has been provided on the following specific cases:

(a) Yanco Rafael Verastegui Gómez, aged 21, bank employee, arrested on 4 March 1989, taken to the DIM barracks and, for 36 hours, allegedly brutally beaten on all parts of his body, given electric shocks, suffocated with a plastic bag until he nearly fainted and subjected to a mock execution;

(b) Yves Roland Denis Boulton, aged 31, student activist, arrested on 4 March 1989, taken to the DISIP barracks and later to the DIM barracks and, for 36 hours, reportedly beaten on all parts of his body, including the head and testicles, forced to climb up and down stairs on his knees, with his hands tied behind his head, made to shower with ice-cold water for 5 to 10 minutes and subjected to electric shocks and death threats. The torture ended when he signed a document they would not let him read;

(c) Omar Pinto, aged 32, arrested on 4 March 1989 and taken to the DIM barracks, where he was allegedly tortured for 24 hours, including blows and kicks to all parts of the body, having his head submerged in water, having his head covered up with a plastic bag while he was being beaten and threatened with electric shocks and that his daughter would be tortured if he did not co-operate;

(d) Alejandro Fidel Seguar Briceño, aged 19, arrested on 2 March 1989 by members of the military police and taken to the Fuente Tiuna Barracks, where he was subjected for 24 hours to torture, such as being hung between two walls like a hammock, with his hands and feet tied, being beaten all over his body at the same time and repeatedly being hit on the head and other parts of the body with a wooden stick; while they were interrogating him, he was forced to lie on the floor and his hands were stepped on;

(e) In addition, Max Verastegui Gómez, José Gregorio Ramos and five other persons arrested by DIM also stated that they had been tortured. Most of them were reportedly kept incommunicado in cells without light during part of their detention.

199. On 7 December 1990, the Government of Venezuela gave the Special Rapporteur a communication sent by the Office of the Attorney-General of the Republic stating that the above-mentioned cases were brought before a court of first instance. "The referral took place on 27 July 1990. The forensic medicine reports described the following results: according to the official document sent by the Ministry of Justice, Judicial Police Technical Unit No. ..., citizen Yango Rafael Verastegui Gómez was examined at San Carlos barracks on 20 March 1990 and it was found that there were no external injuries to be described from the forensic medicine point of view. His general condition is satisfactory. Official document No. ... from the same body states that citizen Pinto Valera Omar had many scars on the abdomen, both wrists and the left forearm. These injuries are self-inflicted. The rest of the physical examination is within the normal limits, but it recommends a forensic psychiatric examination on account of a suicide attempt. In addition, the expert report on citizen Denis Boulton Roland, as contained in

official document No. ..., refers to traces of testicle chafing and pain. However, the examination states that his general condition is satisfactory. The proceedings to which reference has been made are still in the preliminary stage".

200. In a letter dated 12 December 1990, the Government informed the Special Rapporteur that, according to the Office of the Attorney-General of the Republic, "after a thorough review of file No. ..., which is before Criminal Court No. 19 in the Federal District and State of Miranda, which is dealing with all cases relating to the incidents in late February and early March 1989, no information was found on citizens Alejandro Fidel Segura Briceño, Max Verastegui Gómez and José Gregorio Ramos".

Yemen

Government replies

201. On 15 November 1990 the Government of Yemen addressed a letter to the Special Rapporteur providing information on the changes occurring in the country since the establishment of the Republic of Yemen on 22 May 1990. It was affirmed that the new constitution and laws of the Republic of Yemen are based on the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. The Government has adopted democracy as a sound basis for the development of a unified Yemeni society and has helped to strengthen the principles of human rights.

Zaire

Urgent appeals

202. On 29 August 1990, the Special Rapporteur sent an urgent appeal to the Government of Zaire transmitting information concerning the following persons: Lusamba Mubi-Malu, Miseia Kabulu Christophe, Ngandu Wa Loko, Mpasu Mabanza, Sapue Kumune (all members of the Union for Democracy and Social Progress, UDPS), Ekongo Udimba Paul, Olongo Mamba Jean-Marie and Otete Gaston (all members of the Lumumba Congolese National Movement, MNC-L). These persons and other members of the two parties whose names have not been communicated were arrested in Kinshasa on 16 and 18 July 1990 and allegedly continue to be held incommunicado in undisclosed places of detention. According to the source, persons who were arrested in the past for political reasons and held in similar conditions were reportedly tortured or subjected to ill-treatment. For this reason, fears have been expressed that the above-mentioned persons might be subjected to torture or ill-treatment.

III. VISITS BY THE SPECIAL RAPPORTEUR

A. Visit to the Philippines

1. Introduction

203. The Special Rapporteur visited the Philippines from 1 to 10 October 1990, in response to an invitation extended to him on 30 November 1989 by the Government of that country. During his visit the Special Rapporteur held discussions with the Secretary of Justice, Franklin Drilon, who was accompanied by Under-secretary Bello, the Chief State Prosecutor, Fernando de Leon, and Deputy Chief State Prosecutor Mariano; Under-secretary of National Defense for Reserve Army Affairs, Eduardo Ermita, accompanied by Brig. Gen. Marino Filart, Commanding General of the Regional Capital Command (CAPCOM) of the Metropolitan Police Force, Brig. Gen. Adam Jimenez, Deputy Chief of Constabulary for Civil-Military Operations (PC/INP), Col. Edwin Bacalla, Special Assistant to the Under-secretary of National Defense, and Captain Salipsis of the Philippine Navy; the Special Rapporteur also held discussions with Justice Abraham Sarmiento of the Supreme Court, Mrs. Mary Concepción Bautista, Chairperson of the Commission on Human Rights, accompanied by several Commission members and the Director for field operations, Senator Wigberto Tañada, Chairman of the Senate Committee on Justice and Human Rights and Vicente de la Serna, Congressman and Chairman of the Congress Committee on Justice and Human Rights. He also met with the Acting Secretary of Foreign Affairs, Manuel Yan, and with the Solicitor General, Francisco Chavez.

204. On 5 October 1990, during a visit to Cebu City (the main town of Region No. VII, in the Visayas), the Special Rapporteur met with Justice Priscila Agana, and with Justices Perry Alcomar, José Burgos, Portia Hormachuelos and Pedro Son. He also visited the local chapter of the Commission on Human Rights, where he was briefed by the Director, Attorney Alejandro Alonzo.

205. The Special Rapporteur also met, in Manila and in Cebu City, with representatives of the following non-governmental organizations: Philippine Alliance of Human Rights Advocates (PAHRA), National Movement of Civil Liberties (NMCL), Task Force Detainees (TFDP), Ecumenical Movement for Justice and Peace (EMJP), National Council of Churches of the Philippines, Medical Action Group, SELDA, KAPATID, GABRIELA, BALAY and Free Legal Assistance Group (FLAG).

206. The Special Rapporteur visited the following prisons and detention centres: the PC-INP detention centre in Camp Crame, Quezon City, Pasay City Gaol, the PC-INP gaol in Camp Bagong Diwa, Bicutan and the Cebu Provincial Detention and Rehabilitation Centre. In all these prisons and detention centres the Special Rapporteur met privately with prisoners, whose names were provided by non-governmental organizations, who had allegedly been subjected to torture, and with other prisoners who wished to tell him about their past experience. The cases of some of these prisoners had been submitted in the past by the Special Rapporteur to the Government, either by letter or by urgent appeals. Due to the "Red alert" declared following the coup attempt in Mindanao, the Special Rapporteur was not authorized to meet with detainees held in Camp Sotero Cabahug, Cebu. Further details about contacts held with representatives of non-governmental organizations and with alleged victims of torture are contained in section 3 below.

207. The Special Rapporteur wishes to thank the Government of the Philippines for the invitation extended to him. He also wishes to express his sincere gratitude to all the persons he met during his visit, be they government officials, other holders of official posts or non-governmental persons, for the warm and kind wey in which he was received and for the useful information provided for him during the meetings.

2. Background and legal and institutional framework

208. When in February 1986 a popular uprising brought to an end the 14-years' rule of President Marcos the new administration under President Corazon C. Aquino solemnly declared that it would restore the rule of law and respect for human rights in the country. A new Constitution was adopted by popular referendum in 1987. Article 2, Section 11 provides that "the State values the dignity of every human person and guarantees full respect for human rights". Article III contains a Bill of Rights. Its Section 12 provides, inter alia, that "no torture, force, violence, threat, intimidation, or any other means which vitiate the free will shall be used against [a person under investigation for the commission of an offense]. Secret detention places, solitary, incommunicado, or other similar forms of detention are prohibited". It further provides that any confession obtained [under duress] shall be inadmissible as evidence and that the law shall provide penal and civil sanctions for violations of this section as well as compensation to and rehabilitation of victims of torture or similar practices, and their families. Article XIII, Section 17 establishes an independent office called the Commission on Human Rights (CHR) which, among its other functions, "shall investigate, on its own or on complaint by any party, all forms of human rights violations, involving civil and political rights". This Commission is the successor to the Presidential Committee on Human Rights, which was created by the President on 16 March 1986 and which had similar powers.

209. In line with this stated policy the Philippines ratified a number of international instruments. Being a party since 7 June 1974 to the Covenant on Economic, Social and Cultural Rights, it ratified on 23 October 1986 the Covenant on Civil and Political Rights and, on 22 August 1989, the Optional Protocol to the Covenant on Civil and Political Rights under which individuals have the right to bring a complaint about violations of the rights set forth in the Covenant before the Human Rights Committee established under the Covenant. It also ratified, on 18 June 1986, the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and, on 11 December 1986, Protocol II to the 1949 Geneva Conventions on the Humanitarian Laws of Warfare. Articles 4, 13, 14 and 15 of the 1984 Convention against Torture contain similar provisions as those mentioned in article III, Section 12, of the Constitution. Protocol II to the 1949 Geneva Conventions deals with situations of armed conflicts not of an international character and explicitly prohibits, inter alia, the use of torture.

210. The Philippines has known several insurgent movements for a considerable number of years. In the southern part of the country the Muslim National Liberation Front (MNLF) is trying to establish a separate Muslim state. Although the present Government granted autonomy to four provinces on the southern island of Mindanao, fighting has not stopped. Of far more importance is the insurgency by the New People's Army (NPA), the military wing of the

Communist Party of the Philippines (CPP), which itself is part of a broader coalition, the National Democratic Front (NDF). The NDF demands comprehensive land reform, fundamental redistribution of wealth and power and removal of the United States bases. The NDF and its component groups have been declared illegal by the Government; mere membership of these organizations is a felony and punishable under the Revised Penal Code. The ruthless campaign against the insurgent movements and affiliated groups under the régime of President Marcos led to serious violations of human rights and to an increasing popular resistance resulting in the 1986 revolution. The new Government released most political detainees and started a reconciliation process. Early in 1987 the negotiations on a cease-fire broke down and the Government decided to resume the armed struggle.

211. A counter-insurgency strategy was developed, the so-called "total approach strategy", consisting of various phases. The first phase is called the "clearing phase" and is aimed at the destruction of the rebel forces by the mobile military units. The second phase is the "holding phase" wherein control over the recovered areas is transferred to the territorial (police) forces. The third phase, the so-called "consolidation phase", is meant to involve to an increasing degree the civilian authorities and "the committed citizenry" (the so-called civilian volunteer organizations, CVOs) to defend the society against undermining activities. The final phase is called the "development phase" and is aimed at solving the underlying causes of the insurgency by initiating livelihood projects, campaigns against illiteracy, etc.

212. It is this "total strategy approach" which is highly controversial in Philippine society. This controversy determines to a large degree the human rights discussion, since according to many sources the total approach strategy has led to a similar pattern of human rights violations as that prevalent under the Marcos régime.

213. Although the armed forces claim that the total approach strategy has been relatively successful, according to its own statistics there were at the end of 1989 still about 7,000 "insurgent-affected" barangays (the smallest administrative local unit) which is about one sixth of the total number; whereas the strength of the NPA was estimated at nearly 20,000 regulars.

214. Apart from these insurgent movements there have been a number of coup attempts by dissident military groups of which the RAM (Reform the Armed Forces Movement), headed by cashiered Lt. Colonel Gregorio Honasan, is the most important. From 1986 until 1989 there were six such attempts, and during the Special Rapporteur's visit a seventh coup attempt took place in Mindanao. This attempt was crushed in two days and unlike the previous ones, was not concentrated in the capital. Since August 1990 the capital area has been the target of more than 40 bomb attacks which are also attributed to these dissident military groups.

215. As a result of the ongoing counter-insurgency efforts the armed forces have a preponderant position in Philippine society. It should be noted, however, that under article II, Section 3 of the Constitution it is explicitly stated that civilian authority is, at all times, supreme over the military, and that article VII, Section 18 of the Constitution states that the President shall be the Commander-in-Chief of the armed forces of the Philippines.

216. The total approach strategy, mentioned before, is embedded in a three-tiered defence system for internal security, consisting of three components:

(a) The Military Mobile Forces (the Armed forces proper) consist of combat units and are primarily responsible for the clearing phase;

(b) The Territorial Forces, which play a preponderant role in the holding and consolidation phases have a dual composition: they consist of the police (the Philippine Constabulary and the Integrated National Police) on the one hand and the Citizen Armed Force Geographical Unit (CAFGU) on the other hand. The Philippine police is part of the armed forces; there is no civilian police apart from the fact that the National Bureau of Investigation has police powers to conduct investigations in criminal cases and disposes of qualified personnel to carry out this specific task. The CAFGUs are composed of reservists and are part of the military system. Although it is maintained that the army strictly controls the CAFGUs and that applicants with a criminal record are rejected, concern has been expressed by various civil authorities and human rights organizations about their undisciplined behaviour, reportedly resulting in serious human rights violations. Another reason for concern is that the CAFGUs sometimes hire themselves to private business concerns, a phenomenon that has raised doubts about their loyalty to the Government;

(c) The third element of the three-tiered defence system for internal security consists of the Civilian Volunteer Organizations, or Bantay Bayan. These CVOs, to which a role is assigned in the consolidation phase, are not part of the armed forces; they operate under the supervision of the local authorities. The function of the CVOs is formally seen as an expression of the constitutional rights of citizens (art. XIII, Sect. 15) to organize themselves to protect their interests. They are supposed to enhance the campaign for peace and order in their respective localities and should strictly adhere to the orders of military and civilian authorities. In principle they are unarmed, but members who are authorized to carry arms, can keep them while carrying out their function.

217. Although the Government considers the CVOs to be an essential element of the system to maintain internal security, non-governmental sources have expressed fear that the CVOs function is the same as that of the notorious armed vigilante forces under the Marcos régime, which were responsible for serious human rights violations and are formally banned by article XVI, Section 24 of the Constitution. It is also said that recruitment is not entirely voluntary and that their creation blurs the roles of the military and the civilians, thereby contributing to the militarization of Philippine society.

218. The process of restoring peace and ending the insurgency is co-ordinated by Peace and Order Councils (POC), which operate at the national, regional, provincial, city and municipal level. These POCs consist of representatives of the Department of Local Government, the military and the private sector.

219. At present the Philippines does not have a Department of the Interior but a Department of Local Government. A bill is pending before Congress intended to supplant the latter by a Department of the Interior with supporting agencies such as a Philippine National Police. If this bill is enacted,

article XVI, Section 6 of the Constitution providing that the State shall establish and maintain one police force which shall be national in scope and civilian in character, to be administered and controlled by a national police commission, would be complied with.

220. The far from stable situation in the country has seriously impeded the Government's confessed policy to restore completely respect for human rights. According to a number of non-governmental organizations which are well-established in Philippine society, the Government's policy, by giving priority to the military suppression of the insurgency, has re-introduced the occurrence of illegal arrests, torture, extra-legal executions, disappearances and forced evacuations of whole village communities. Such non-governmental organizations are on the other hand often portrayed as front organizations of the prohibited NDF. Such accusations and counter-accusations can freely be made in the open Philippine society, although human rights-oriented groups claim that they have been subject to harassment. The Special Rapporteur was informed that since 1986 six human rights lawyers have been killed, which is more than during the entire Marcos régime. The fact that human rights violations occur on a relatively large scale seems also to be borne out by the report of a Committee of the Congress and the Senate (named the Tañada Committee after its Chairman Senator Wigberto Tañada). This Committee made an extensive tour throughout the country and came to the following conclusions:

> "1. Human Rights continue to be violated despite the fact that human rights violations committed by military, police and other government-supported organizations are not in pursuit of any government policy.
>
> 2. The 'total war policy', now referred to as the 'total approach' strategy and operationalized through the AFPs (Armed Forces of the Philippines) Three Tiered Defense System for Internal Security, is considered a major factor contributing to the continuing human rights violations."

221. The independent Commission on Human Rights has received up until 31 August 1989 more than 2,500 complaints about human rights violations, the majority of which were directed against the military. The armed forces filed 421 human rights complaints against the CCP/NPA with the Commission in the period 1986 to 31 August 1989. The Tañada Committee, however, found that "the investigation of many complaints of human rights violations and the prosecution of many offenders are found to proceed at a very slow pace despite the availability of witnesses and the existence of the appropriate mechanisms and institutions of government. Thus, a number of victims of human rights violations and their families no longer filed their complaints with the Commission on Human Rights, the Fiscal's Office or the Military, as many of them expressed lack of trust and confidence in these agencies' ability to respond immediately and effectively to their complaints".

222. During his consultations the Special Rapporteur was also repeatedly told that many victims of human rights violations did not file complaints since the procedure was excessively slow and hardly ever led to punishment of the alleged perpetrators. The Commission on Human Rights provided the Special Rapporteur with statistical data about the number of cases in which those responsible for abuse were charged. Some 276 cases had been filed by

the Fiscal's Office, after having been investigated by the Commission, with civilian courts and 273 with military courts. Of these 549 cases, 86 had been resolved. According to information received from the armed forces 14 military men including 2 officers were tried and disciplined for human rights violations during the period January 1989 until May 1990. Penalties consisted of demotion, suspension from service or forfeiture of rights.

223. The existence of an independent Commission on Human Rights with investigating powers is a rather unique phenomenon. The Commission has a staff of about 600 persons in its headquarters in Manila and 12 regional offices. The staff includes lawyers, investigators and a small medical unit. Next to its investigative powers with regard to human rights violations, either proprio motu or on complaints by any party, the Commission has the power to recommend on effective measures to prevent human rights violations and to promote respect for human rights; it has the right to visit all places where people are detained; it has the duty to establish a continuing programme of research, education and information to enhance respect for the primacy of human rights. The Commission on Human Rights itself calls its function a two-pronged approach, viz., human rights protection through the legal and investigation services, witness protection, free legal aid and financial assistance programmes, and human rights promotion through its public information and education services to heighten awareness of human rights and the institutions established for the promotion of and respect for human rights. Within the human rights protection programme the Commission established a Quick Reaction Team, providing immediate legal assistance to complainants of human rights violations including visits to police stations and military detention centres where the suspect is believed to be detained, a Witness Protection Programme under which a safety shelter and subsistence allowances are granted for the duration of the hearing or for as long as it may be deemed necessary, and a Gaol Visitation Programme in response to reports of torture or maltreatment of prisoners or detainees, complaints of illegal arrests or detention and lack of adequate basic facilities. The Special Rapporteur was informed that during the period January to May 1990, 304 gaol visitations were conducted covering a total of 8,051 inmates. As a result of these visits 64 prisoners were released, 27 detainees were provided with legal assistance and 39 complaints were documented and investigated.

224. On 6 May 1988 the Commission issued a statement on human rights and guidelines on visits, conduct of investigation, arrest, detention and related operations. At the same date the military authorities undertook to comply with these guidelines.

225. Although the Commission on Human Rights possesses investigative powers, it has no powers to prosecute. In 1987 a bill was submitted by the Senate's Committee on Justice and Human Rights to strengthen the organization and to expand the functions of the Commission on Human Rights, providing it, inter alia, with the power to file, upon its finding of the existence of a prima facie case, the necessary information with the proper civil court. The Bill is still pending before Congress. The Department of Justice, however, has voiced its objection against this idea since it would not be in conformity with the Philippine system which makes a distinction between the authority which collects the evidence and the authority which decides whether there is a prima facie case and, if so, decides to prosecute. This latter function is exercised by the fiscal's office. According to the Department of Justice,

just as in the case of common crimes it is the police which gathers the evidence and it is the fiscal's office which decides whether, on the basis of the evidence, a case will be brought against the respondent, it is the task of the Commission on Human Rights to collect evidence with regard to human rights violations, but the power to decide whether this evidence is sufficient basis for a prosecution should be left with the fiscal's office. Giving powers of prosecution to the Commission would give it a dual function which could be in violation of the principle of "due process". In spite of these objections, several members of Congress were of the opinion that the Commission on Human Rights should eventually be given prosecutory powers, since the present procedure is complicated and time consuming. As an intermediary solution the Department of Justice deputized the lawyers of the Commission as Special Prosecutors. This means that the Commission lawyers can file complaints directly with the fiscals upon the determination of a prima facie case of a human rights violation. The decision to prosecute, however, is still made by the fiscal. Although according to the Commission on Human Rights this measure has hastened the prosecution of human rights offenders as well as simplified the process of monitoring human rights cases, other sources expressed concern about the slow processing of complaints and about the fact that the Commission, in considering such complaints and determining whether there is a prima facie case, acted too much as a quasi-judicial body in a dispute between the applicant and the respondent, instead of taking up the case of the alleged victim of a human rights violation. In order to speed up the processing of human rights cases the Secretary of Justice issued on 19 April 1990 a list of prosecutors designated to handle human rights cases in all cities and provinces.

226. Another important power of the Commission on Human Rights is the issuance of clearances for military or police officers who are candidates for promotion, stating that they have a clean record with regard to human rights violations.

227. By administrative order of 13 December 1988, the President established a Presidential Human Rights Committee with the mandate to monitor, on a continuing basis, the human rights situation in the country and to advise the President on the proper measures that ought to be taken without delay. The Committee is chaired by the Secretary of Justice and is further composed of the Chairman of the Commission on Human Rights, the Presidential Legal Counsel, one representative each for the Department of National Defense, the Department of Foreign Affairs, the Senate and the House of Representatives, and two representatives of private human rights groups. The Committee has prepared, inter alia, a memorandum of agreement allowing the non-governmental Medical Action Group (MAG) to give medical aid in evacuation centres and places of detention and guidelines on evacuations as a result of military operations. It may be noted, however, that after his return from the Philippines, the Special Rapporteur received information that, in spite of this agreement, members of a MAG medical team were allegedly arrested, questioned and ill-treated during a visit to a gaol they carried out on 14 November 1990.

228. Mention should be made of various legislative measures which are either pending before Congress or are under consideration. One of these is a Bill Providing for a Witness and Benefit Programme to which a person can be admitted if he is subjected to threats of bodily injury or there is a

likelihood that he will be killed, injured, forced, threatened, intimidated or harassed to prevent him from testifying, or to testify falsely or evasively because or on account of his testimony. This Bill was approved by the Senate and is presently under consideration for concurrence in the House of Representatives. Another Bill pending before Congress is a Bill restoring the authority of the civil courts to try the cases of members of the armed forces accused of having committed a crime against civilians, unless the offence is service-connected, in which case the military courts shall have jurisdiction. Presidential Decree 1850, enacted during the Marcos régime, stated that members of the armed forces, including the police, should always be tried by military courts. In view of the fact that this hardly ever led to the punishment of military personnel for violations of human rights, Congress approved a Bill to repeal PD 1850; this Bill, however, was vetoed by the President in the aftermath of the December 1989 coup attempt. At the same time, however, the President submitted a draft Bill with the same aims, which was eventually incorporated in the above-mentioned Bill. As long as this Bill is not enacted, the President can grant a waiver of PD 1850 upon a request to do so. Such a request can be made by any party or by his relatives but also by the authorities and is nearly automatically granted according to Government officials. The present Bill, however, is criticized by various human rights organizations as being ambiguous in certain respects.

229. The Commission on Human Rights, together with a number of Representatives, has taken the initiative for a Bill to establish separate courts to try, hear and decide certain specified human rights cases. According to the Commission on Human Rights this would answer the problem of delayed administration of justice involving human rights cases. Other sources, however, expressed the fear that the judges serving in such courts would be particularly liable to harassment.

230. The Human Rights Committee of the House of Representatives is in the process of drafting a human rights code elaborating on both article III of the Constitution, containing the Bill of Civil and Political Rights, and article XIII entitled "Social Justice and Human Rights", which deals with labour questions, agrarian and natural resources reform, urban land reform and housing, health development and the position of women. This highly ambitious project is still in its initial phase.

231. Under the Marcos régime torture was widely practised in the Philippines. Out of the total number of complaints filed with the Commission on Human Rights' predecessor, the Presidential Committee on Human Rights, and involving human rights violations by the previous régime, torture ranked second after extra-judicial killings. According to non-governmental sources the number of torture allegations declined rapidly after the new Government came into power but started to rise again in 1988. The statistics provided by the Commission on Human Rights on the number of complaints of torture or maltreatment filed with it are not always consistent, but are for 1988 between 50 and 75 and for 1989 somewhat lower. Task Force Detainees of the Philippines, a non-governmental organization, documented in 1988, 718 cases of alleged torture, in 1989 some 386 cases and in the period January to 6 September 1990, 149 cases. (The vast difference between the number of complaints filed with the Commission on Human Rights and cases documented by the TFDP will be discussed later).

232. As is well-known, torture most often occurs during incommunicado or illegal detention. As was mentioned before, incommunicado detention is absolutely forbidden by the Constitution. Moreover, the Constitution provides (art. III, Sect. 2) that "no ... warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing ... the persons ... to be seized."

233. The person against whom a warrant is issued must be identified or identifiable at least. This seems to vitiate the issuance of a warrant for the arrest of "John Doe" or some other fictitious name, containing no description. Nevertheless in recent times the "John Doe" system has been increasingly used by the law enforcement authorities. One documented case, presented to the Special Rapporteur, refers to a number of members of the armed forces who were kidnapped by members of the NPA. One hundred accused were designated as "John Does" with criminal complaint. They were identified several months later without going through the proper process of adequate preliminary investigations, establishing probable cause in their individual case.

234. On 24 September 1990 the Secretary of Justice proposed to the Presidential Committee on Human Rights the issuance of a Department order in which warrants of arrest against "John Does" are called unconstitutional and "totally subversive of the liberty of the subject". Consequently, the use of fictitious names will only be allowed in cases where the person concerned is clearly identifiable and where the description substantially tallies with that of the person sought.

235. There is a fairly wide range of persons specifically empowered by law to make arrests such as members of the Philippine Constabulary, members of the staff of the National Bureau of Investigation and peace officers, which include the officers and members of police and secret service forces. In making the arrest the arresting officer should avoid unnecessary force. He has to deliver the arrested person without unnecessary delay to the nearest police station or gaol. Nevertheless, the Tañada Committee reports that several witnesses testified that "safehouses" are still being used by government agents to interrogate and torture persons who are arrested on suspicion of being NPA rebels or sympathizers. The Committee concludes that for as long as torture in safehouses is made part of the interrogation process, the investigation in cases of human rights violations and the successful prosecution of offenders become very difficult. According to the Commission on Human Rights the existence of safehouses has never been proven.

236. In some cases an arrest may be made without a warrant. Article 112, Section 5 of the Rules of Court provides that a peace officer or a private person may, without a warrant, arrest a person:

(a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offence;

(b) When an offence has in fact just been committed, and he has personal knowledge of facts indicating that the person to be arrested has committed it;

(c) If the person is an escapee from a prison or detention-place.

237. According to the Supreme Court in a 1985 decision provisions (a) and (b) refer to cases when a suspect is caught in flagrante delicto or immediately thereafter. The authority to arrest without warrant is limited to the cases expressly authorized by law. In all other cases a warrantless arrest is an illegal arrest and a petition for habeas corpus can be filed with the Supreme Court. According to article III, Section 15 of the Constitution the privilege of habeas corpus shall not be suspended except in cases of invasion or rebellion when the public safety requires it.

238. The practice of warrantless arrests seems to be widespread. All the persons who were interviewed by the Special Rapporteur either in detention places or after their release, claimed that they had not been presented with a warrant of arrest.

239. On 9 July 1990 the Supreme Court dismissed eight petitions for habeas corpus, filed by or on behalf of persons who had been arrested without a warrant and claimed that their detention consequently was unlawful. In this decision, which was widely criticized throughout the country, the Supreme Court upheld an earlier decision of 1983 in which it had ruled that the crimes of insurrection or rebellion, subversion, conspiracy or proposal to commit such crimes, and crimes or offences committed in furtherance thereof or in connection therewith constitute direct assaults against the State and are in the nature of continuing crimes. One of the persons involved was not arrested while committing the killing of two soldiers nor was he arrested just after its commission, but he was arrested the following day. Nevertheless the Court ruled that, since he was arrested also for being a member of the NPA, an outlawed subversive organization, and subversion being a continuing offence, his arrest without warrant was justified as it could be said that he was committing an offence when arrested.

240. Two judges expressed their dissent from the upholding of the doctrine of continuing offence. One of them called the doctrine dangerous, since it allowed a person to be arrested when he is doing the most harmless acts on the grounds that he is committing the continuing offence of subversion. He consequently called the doctrine one of the disgraceful vestiges of the past dictatorship. The other judge also criticized the fact that information was filed against the arrested person with the Courts after the petition for habeas corpus was made, in violation of article 125 of the Revised Penal Code which provides that an arrested person must be delivered to the proper judicial authorities within the time prescribed by law. He felt that an illegal detention could not be legitimized a posteriori by the filing of information with the competent judge without a preliminary investigation establishing probable cause which in other circumstances would have justified a warrant of arrest.

241. The decision was criticized not only by human rights organizations, but also by members of Congress and lawyers. The Chairman of the House Committee on Civil, Political and Human Rights expressed the fear that the decision would put in jeopardy the liberty of every citizen who, for the flimsiest of reasons, could be suspected and accused of being a subversive, and who could then be subjected to arrest without judicial determination of probable cause for his arrest.

242. A member of the Court majority in an address to the Philippine Bar Association defended the doctrine of continuing offence. He said that rebellion and subversion are offences not usually constituted by single acts, but by a succession of acts, since rebels and subversives plan and expect to undertake a series of acts geared toward the attainment of their object. He emphatically denied that arrests of persons may be made on mere suspicion that they are rebels or subversives, or that their arrests deserve less than the full attention and concern of the court.

243. Nevertheless, human rights organizations fear that there will be an increase of arrests merely for being placed on the list of wanted persons by the military. According to the military authorities, such lists - called "orders of battle" - are established as a result of intelligence network information and are thoroughly checked. However, since such lists are drawn up unilaterally by the military authorities, concern was expressed by human rights organizations that arrests without a warrant on the mere basis of a person's inclusion in the list (which to them seems to be the substance of the Court's ruling), will lead to substitution of the judgement of a judge with the judgement of the police, the CAFGUs, CVOs or the military. It was feared that such arbitrary arrests without judicial control might also lead to an increase in the occurrence of torture.

244. In this respect attention was drawn to the fact that in many cases people are arrested without warrant on suspicion of sedition or subversion and then, since rebellion or sedition are difficult to prove, are charged with illegal possession of firearms in furtherance of rebellion, which is an unbailable offence. A person cannot be arrested for this offence without a warrant, unless caught in flagrante. It was alleged that often, after a warrantless arrest on suspicion of sedition, firearms were planted in the arrested person's house or car, while in the meantime they could be interrogated about their contacts, etc. It was also said that quite often such persons were found to be innocent during trial, and, consequently, were acquitted.

245. Meanwhile, a motion for reconsideration of the decision on warrantless arrests has been filed with the Supreme Court. The decision, therefore, is not final.

246. If a person is arrested without a warrant, the arresting officer must deliver such person to the proper judicial authority within a period ranging from 12 to 36 hours, depending upon the penalty prescribed for the offence (these terms do not apply for arrests upon warrant, since here the judge has already evaluated the information filed). Moreover, each detained person shall be informed of the cause of his detention and shall be allowed to communicate and confer at any time privately with his attorney or counsel. Non-compliance with these provisions is a punishable act (art. 125 of the Revised Penal Code). Relatives of the arrested person also have the right to visit him.

247. According to information received from a non-governmental organization, torture is generally not practised in order to gain confessions nor to prosecute cases against the victims, but mainly to obtain information. According to the Constitution any confession or admission extracted by torture or maltreatment is inadmissible in court. The Supreme Court has given extremely strict rulings in this respect. It has even ruled that persons willing to make a confession under oath must be medically examined before they are sworn in.

3. Contacts with non-governmental organizations and with alleged victims of torture

248. In keeping with a practice established in previous country visits, the Special Rapporteur dedicated much of his time to meetings with representatives of non-governmental human rights groups (this applies, of course, only to countries where such groups can operate legally and freely, which is indeed the case in the Philippines) and individuals who alleged having been tortured, both former detainees and persons still in detention. As may be seen in the introduction, the number of non-governmental organizations concerned with human rights, and in particular with detainees and their specific problems, is considerable. In fact, all the groups whose representatives met with the Special Rapporteur, with the exception of the Free Legal Assistance Group (FLAG), operate within the network of the Philippine Alliance of Human Rights Advocates (PAHRA), which is an umbrella organization, founded in 1986. It appears that FLAG and PAHRA are recognized by the authorities as representative of the community of non-governmental human rights groups in the country, since both were invited to participate in the Presidential Committee on Human Rights. Among the groups which the Special Rapporteur met the following are concerned with the conditions of persons under detention, and in particular with alleged cases of torture: Task Force Detainees of the Philippines which was founded in 1974, has links with the Catholic Church and deals with protection of political prisoners and other victims of human rights violations; Medical Action Group (MAG), founded in 1982 and made up of physicians and lawyers, concerned with health and human rights; MAG carries out medical missions to affected areas and helps torture victims and political prisoners in general; KAPATID, founded in 1978 and composed of relatives of political prisoners; their programmes include welfare for relatives of political prisoners and campaigns to improve conditions of political prisoners; SELDA which deals with ex-political prisoners. Their programmes include rehabilitation, welfare, education and assistance to children of former prisoners; Gabriela, a coalition of about 100 women's organizations and groups, including peasants and urban poor, concerned with specific problems of female detainees; and Balay, founded in 1985 as a relief and rehabilitation centre for former political prisoners. The Free Legal Assistance Group (FLAG) was founded in 1974. It is composed of lawyers who, on a voluntary basis, provide free legal assistance to political detainees who cannot find competent legal advice and representation. FLAG is well represented throughout the country and is the largest human rights lawyers group in the Philippines. During his visit to places of detention in Cebu City the Special Rapporteur was accompanied by a FLAG lawyer, Attorney A. Arnado, who also acted as an interpreter. FLAG, as well as MAG and TFDP provided the Special Rapporteur with very well documented information, including lists of alleged cases of torture over the period 1987 to 1990, corroborated by affidavits and medical certificates.

249. In a round-table discussion held on 2 October 1990 with representatives of the various non-governmental organizations operating under the PAHRA network, the following points were made by the participants: human rights violations have increased in recent months. This is due to the intense militarization of society and the role played by vigilante groups and CAFGUs. But the Government itself, with its "total approach strategy", which really means a total war policy, also greatly contributes to this deterioration. Victims of such violations are principally the displaced populations, whose

number is about one million; a second group of victims are suspected members or sympathizers of insurgent groups. Despite the Constitution and the Bill of Rights, repressive laws still exist. Presidential Decree 1850, which assures impunity to perpetrators of human rights abuses among the military, is one example. Another one is Presidential Decree 1866 on illegal possession of firearms in furtherance of rebellion. This offence carries the penalty of life imprisonment and, as such, excludes release on bail. All suspected subversives are charged with PD 1866, since it is easier to produce evidence by planting weapons than to prove the offence of subversion. The Bill of Rights is not a safeguard against warrantless arrests, and most serious human rights violations, such as torture, salvaging (arbitrary or extra-judicial executions) and disappearances usually occur after such warrantless arrests. The practice of "tactical interrogation", used by the military and the police, means that periods of unacknowledged detention can be very long; this is especially true in the countryside where the number of lawyers is very limited and relatives are not allowed to visit the detainees. The military can, in fact, hold the person for interrogation as long as they wish, until they are through with the interrogation. Suspected high-ranking leaders of insurgent groups are generally treated better than simple members or sympathizers. They are rarely tortured, whereas members of groups such as the "sparrow units" (urban-based killing squads of the NPA) are often tortured severely, also because they are the object of military frustration.

250. At a meeting with four members of the Medical Action Group (MAG), all of them physicians, the Special Rapporteur was told about the group's methods of action. In most cases doctors have access to detainees approximately one week after detention. In some rare cases visits can be held as early as three days after detention. In other cases it is only after one month. In some cases detainees may see a doctor of their choice. After the creation of the Commission on Human Rights, in 1986, the Commission resorted to MAG doctors to visit and examine detainees, but at present the Commission has its own doctors. Visits to detainees are normally held at the request of their relatives or lawyers. Although generally MAG doctors have free access to detention centres and may examine detainees privately, harassment and intimidation have recently increased, since the group is viewed by the military as sympathetic to leftist groups. Such intimidation may be done by telephone threats or the presence of cars without number plates in front of the group's offices. There is no evidence of participation of doctors in torture of detainees, however, detainees are almost always blindfolded when tortured. Also, no cases of torture resulting in death have been documented.

251. At a meeting with two representatives of FLAG the Special Rapporteur was informed about the group's structure and activities. There were over 300 lawyers working for the group throughout the country on a voluntary basis, in addition to the 58 full-time staff. At present, some 2,000 cases were being handled by FLAG lawyers nation-wide. The FLAG representatives made a general evaluation of the situation in the country and provided detailed information about certain questions relating to the human rights situation. They complained that FLAG, like other human rights groups in the country, was recently subjected to increasing harassment and intimidation. They admitted that there were also complaints about human rights violations committed by members of the NPA, but said such complaints principally concerned taxation of the population and other forms of "revolutionary justice". They provided the Special Rapporteur with highly valuable and well-documented material.

252. The Special Rapporteur could meet privately with some 30 persons, former detainees or persons still under detention, who alleged they had been tortured. Most of these persons feared that their safety, or that of their relatives, could be in danger if their names are revealed. Their statements can therefore not be described in detail. Nevertheless, a certain pattern appeared in most of the statements given by these persons.

253. The majority of the detainees and ex-detainees interviewed by the Special Rapporteur contended that they had been held incommunicado for a period which was considerably longer than the 36 hours allowed by law (in some cases even up to two weeks). Nor had they been allowed to see a lawyer during this period. They alleged that in particular during this period of unacknowledged detention they had been subjected to torture.

254. Torture, was mainly used in order to obtain information on insurgents, their activities and movements, links with organizations or persons which are already suspected, etc.

255. The types of torture most often reported include excessive beating or kicking, placing of a plastic bag over the head leading to near suffocation (called "dry submarine"), the pouring of water in the nose while the mouth is propped with a cloth, leading to near drowning and suffocation (called the "watercure"), the applications of electro-shocks to sensitive parts of the body, death threats and mock executions. Almost invariably the victims are blindfolded or hooded when subjected to torture. Torture (mainly beating) is allegedly practised during transport immediately after arrest as well as during interrogations in places of detention.

256. A considerable number of interviewees had not filed a complaint either with the Commission on Human Rights or with another authority. The explanations given varied: in most cases it was felt that such a complaint would either be dismissed or would lead to nothing since it was impossible to identify the perpetrators because of the blindfolding and the absence of witnesses. In other cases it was also feared that the bringing of a complaint might lead to further harassment. Some interviewees complained about the fact that although they had asked for medical treatment, this was either withheld or the medical examination by medical prison-staff was superficial.

257. In some cases persons had been released without any charge after reportedly having been subjected to torture; in nearly all other cases the torture stopped when the persons concerned were charged and arraigned and transferred to detention centres where they awaited their trial.

258. One of the ex-detainees interviewed by the Special Rapporteur who accepted that his identity be revealed, is Rosito Nino. His case, as described below, may be seen as illustrative of the allegations made by the other ex-detainees during their meetings with the Special Rapporteur. Rosito Nino was arrested without a warrant in November 1987. No subversive documents were found when his home was searched but when he was brought before a judge the military produced such material which, he alleged, was probably planted by them. He alleged having been tortured for three consecutive nights, three hours every night, by being stripped naked, with his hands tied behind his back, having electric shocks applied to his genitals, and being beaten. When he lost consciousness he could finally rest, but soon after he

regained his senses the torture resumed. He witnessed others having their head submerged in a bucket of water while being hanged upside down. He received no food. He was constantly naked and blindfolded, had cold water poured on him and then placed before an air conditioner. He later found out that the reason for his arrest and interrogation was the murder of a navy officer who he had known since childhood. After a while he was transferred by CAPCOM soldiers to the Bicutan Camp where torture allegedly continued. He was accused of being a leading NPA commander, and was beaten and kicked by every passing soldier. He was threatened with death by being skinned unless he confessed and gave his friends' names. After two days, thanks to the intervention of a Congressman, he was sent back to police custody (WPD) and then to the City Gaol. He was charged with robbery and homicide. After about five months his case was dismissed and he was released.

259. As mentioned in the introduction, the Special Rapporteur visited four prisons or detention centres, including one city gaol (Pasay), two military detention facilities (Camp Crame in Quezon city and Camp Bagong Diwa in Bicutan) - all three in the metropolitan area of the capital Manila - and one provincial penitentiary (the Detention and Rehabilitation Centre of Cebu Province). Most of the detainees interviewed by the Special Rapporteur were held for offences connected with their alleged activity for the NPA, and pending their trial. Their torture allegations related, without exception, to the period of arrest and interrogation. No complaints were made concerning present detention conditions, except for the insufficient quantity of food. Visits by lawyers, doctors and family members seem to be held on a regular basis. In the PC-INP detention facility in Camp Crame (which according to some non-governmental organizations is a "show piece" for visitors and should therefore not be considered as a typical, or representative case), the Special Rapporteur noted that most of the detainees, both males and females, with whom he had a sort of a round-table conversation, did not complain of having been tortured. Generally speaking detainees at the Cebu Provincial prison described torture methods to which they had allegedly been subjected as consisting principally of severe beating with various objects, and altogether less "sophisticated" or elaborate than in the other detention centres visited. No use of methods such as "dry submarine", "watercure" or electric shocks was alleged.

260. The Special Rapporteur also heard statements by four persons whose case he had submitted earlier to the Philippines Government. Two had already been released, but only one of them, Cleotilde Binabaye, accepted that her name be revealed. The other two, Joven Lim and Isidro de Lima, are still in detention. The cases of Cleotilde Binabaye and Joven Lim were transmitted to the Government by an urgent appeal dated 12 September 1989 (see document E/CN.4/1990/17, para. 127). Cleotilde Binabaye was released on bail shortly before she was interviewed by the Special Rapporteur. She told the Special Rapporteur that she had been arrested without a warrant and accused of membership in the NPA. She denied the accusation and said she had been active in a legal workers' organization. She alleged having been maltreated while being held for interrogation in Fort Bonifacio Camp and in Camp Bagong Diwa in Bicutan. Joven Lim was interviewed, together with other detainees, at the PC-INP gaol, Camp Bagong Diwa, Bicutan. He told the Special Rapporteur about the circumstances of his arrest, in July 1989, in Manila and his alleged torture in the CAPCOM headquarters. Isidro de Lima's case was brought to the Government's attention by letter dated 6 June 1990, (see para. 134). De Lima is still detained at the Pasay City gaol. His statement gave further details

about his alleged torture. He was arrested on 25 March 1990 by CAPCOM personnel and accused of being an NPA "sparrow member". He was later charged with murder, theft and violation of PD 1866 (illegal possession of weapons in furtherance of rebellion). His torture, by CAPCOM personnel, allegedly started immediately following his arrest and consisted of mauling, pouring of spiced vinegar into his nose and mouth, electric shocks applied to various parts of his body, including his genitals, and being subjected to "Russian roulette", with a gun pointed at his head. He was allegedly again subjected to similar torture on 11 April 1990, and was later placed in a small cell full of ants. The next day he was allegedly again tortured by electric shocks. Afterwards he was returned to the Pasay City gaol and a doctor examined him, but the examination was limited to his wrist, which was bruised from the handcuffs. The rest of the body was not examined. The case of Isidro de Lima was reportedly at present being considered by the Philippine Commission on Human Rights (PCHR).

261. In this context it may be noted that on 24 October 1990 the Philippine Mission to the United Nations Office at Geneva addressed a letter to the Special Rapporteur, in reply to his letter dated 6 June 1990, informing him that the PCHR was investigating the cases transmitted by that letter. The PCHR further suggested that the investigation of future cases would be expedited if non-governmental organizations could be encouraged to bring alleged violations of human rights to its attention at the same time they were reported to the Special Rapporteur, to enable it to take immediate action. The Special Rapporteur wishes to endorse this suggestion by the PCHR. He agrees with the Ambassador and Permanent Representatives of the Philippines that reporting alleged violations of human rights to him and to the PCHR at the same time would enable the wheels of justice to move faster and in the right direction.

4. Evaluation and recommendations

262. The long-yearned fall of the dictatorship of President Marcos in 1986 has not brought the Philippines the period of stability and concomitantly a restoration of the rule of law which was the goal of the peaceful and bloodless revolution. The nation is deeply divided and even the armed forces, the most powerful entity in the country, are fragmented. The ongoing hostilities with an influential insurgent force provides a situation of internal strife which so often is conducive to violations of human rights. The ultimate aim of suppressing armed insurgency is seen as the highest value under such circumstances. In the case of the Philippines the situation is worsened by the fact that certain urban guerrilla units (the so-called sparrow-units) attack and kill personnel belonging to the armed forces and the police. The fact that they operate in quasi-anonimity contributes to the sphere of suspicion and mutual fear, for in the eyes of the military each citizen may be a potential threat. Human rights organizations which come to the support of persons who allegedly have been deprived of their most basic rights are themselves seen as allies of the insurgents and consequently are harassed. It is for this reason that the decision of the Supreme Court of 9 July 1990 on warrantless arrest, referred to earlier, has drawn so much criticism. The Special Rapporteur was informed that this decision might even lead to the curtailment of other fundamental rights like freedom of expression and of peaceful assembly. If a person can be arrested on the suspicion of

committing the continuing crime of sedition, the exercise of these freedoms could subject him to suspicion of involvement in rebellion or subversion and then to arrest and detention.

263. Under such circumstances even the best legal guarantees will come to naught unless there are strong counter-balancing forces in society which remind those who are responsible for the maintenance of internal order to abide scrupulously by the law. In spite of promising measures which were taken immediately after the revolution, the institutions established by these measures do not seem to function adequately even if the difficult situation in which they have to carry out their task is taken into account.

264. Some efforts at national reconciliation have been initiated recently. Leaders from various factions, including principal figures of the political opposition and of the leftist armed groups, have declared themselves willing to enter into negotiations to achieve an enduring solution which finally will bring peace to a nation that has been ridden by violence and internal conflict for such a long time. This process of reconciliation, however, will take considerable time. In the meantime it seems vital to maintain and strengthen the constitutional order which was established after the 1986 revolution through so much sacrifice.

265. It cannot be denied that human rights violations are committed by the insurgents. In this context, the assassinations by the sparrow-units deserve particular mention. If, however, the Government reacts by making the respect for human rights subordinate to the crushing of resistance, it itself contributes to the spiralling of violence and lawlessness. The task of guaranteeing the constitutional order can never be carried out through means which are themselves a violation of that same order.

266. As far as the armed struggle is concerned it could be of great importance if the provisions of the Second Protocol to the Geneva Conventions of 1949 were considered to be applicable. This Protocol contains important provisions to safeguard the basic human rights of the population. The position of the authorities with regard to their applicability is not very clear. Although representatives of human rights organizations told the Special Rapporteur that the Government did not consider the Second Protocol applicable, this position was not unequivocally taken by the representatives of the armed forces during their discussions with the Special Rapporteur. They said that conditions "short of war" indeed prevailed in certain areas and that, therefore, the Protocol could be applicable. Although it is unclear whether the rather high threshold, mentioned in article 1 of the Protocol is met, nothing prevents the Government from declaring applicable the Protocol's provisions which, inter alia, explicitly forbid torture and humiliating and degrading treatment of persons who do not directly participate in the hostilities. Such a decision could contribute to an improvement of the political climate and would indicate that the total strategy approach must not be understood as a total war strategy neglecting humanitarian standards and respect for human rights.

267. The legal provisions in the Philippines with regard to the rights of persons who have been deprived of their liberty are of a high quality. They are nearly word for word in conformity with the Body of Principles for the Protection of all Persons under Any Form of Detention or Imprisonment, adopted by the General Assembly in 1988. The unqualified prohibition of incommunicado

detention, the right of the detainee to immediate access to his lawyer and his relatives, the strict rules with regard to the admissibility of evidence obtained under duress, all seem to make torture virtually impossible. Nevertheless, since torture is easily practised in situations of civil strife, it is all the more imperative to have institutions which scrutinize compliance with the rules and prevent those who violate the rules from doing so with impunity. The Philippine Commission on Human Rights is established explicitly to accomplish this task.

268. Important though it is that the Commission has investigative powers, the mere fact that the decision whether a charge will be brought against an official (military or civilian) is to be taken by the Office of the Prosecutor, inevitably causes delay. The enactment into law of the 1987 Senate Bill which provides the Commission with prosecutory powers therefore seems long overdue. A matter for greater concern, however, is the Commission's inability to deal in a sufficiently speedy way with the cases which are brought to it. According to its own records only slightly more than 14 per cent of the cases filed until 1989 had been resolved by the end of that year. The risk of an ever-increasing backlog is by no means imaginary, and is bound to cause frustration among the complainants who will be less inclined to go to the Commission for redress. An even more serious consequence may be that the preventive effect of an institution like the Commission may gradually wither away. Indeed it has already done so to a certain extent. As long as it is generally known that violators of human rights will not go unpunished, the chances that such violations will take place are slim, but they may again increase if the system to bring such violators to justice does not work effectively.

269. Another element which deserves mentioning is that, in spite of the possibility of presidential waiver of the exclusive jurisdiction of military tribunals over the military, roughly 50 per cent of the cases resolved by the Commission, had been filed by the Prosecutor's office with military courts. In none of these cases was the person found guilty sentenced although in a number of cases disciplinary measures were taken. There seems to be no reason whatever why persons belonging to the military should be tried by military courts for offences committed against civilians during their performance of the essentially civilian task of maintaining law and order. Having such persons tried by military tribunals may easily lead to the suspicion of a cover-up. Presidential Decree 1850, providing the military courts with jurisdiction over all offences committed by members of the armed forces, including the police, should therefore be repealed and replaced by a law which returns to the civil courts the jurisdiction over all offences committed by the military which are not strictly service-connected. Implementation of article XVI, Section 6 of the Constitution, providing that a national police force will be established which is civilian in character and accountable to civilian authorities, would also contribute to a better understanding of the separate tasks of the armed forces and the police.

270. With regard to torture complaints, there is the additional difficulty that the perpetrators generally cannot be identified since the victims are nearly always blindfolded or hooded during interrogation and witnesses are absent. This does not necessarily mean, however, that the case has to be dismissed. First, article 14 of the United Nations Convention against Torture obliges the State Party to ensure in its legal system that the victim of an

act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. A person who, during the investigation, has, beyond reasonable doubt, been found to be tortured while under detention is entitled to compensation even if the person of the torturer cannot be identified. Article 14 is an expression of the rule that the State is responsible for the acts of its organs. The rules of criminal evidence are not pertinent in this respect.

271. Secondly, even if the torturer cannot be identified in person, the place where the victim has been tortured usually can be ascertained. This makes it possible to take action against the commanding officer even if he did not participate in the interrogation himself. Severe disciplinary measures should be taken against all officers who wittingly or unwittingly allow torture to be practised in the places of detention under their command. They must be deemed to be aware of, and therefore may be held responsible for the acts of their subordinates. A standing order should be given that all interrogations are duly recorded with the names of all persons who have participated in the interrogation. In this way the issuance of clearances by the Philippine Commission on Human Rights for military or police officers who are candidates for promotion becomes more meaningful. The Special Rapporteur was told that this system is not very effective since most human rights violators are not officers but belong to the rank and file, especially in the rural areas. It is, however, not enough that an officer has clean hands himself in order to be fit for promotion, for it is also part of his reponsibility to take due care that the persons under his charge have clean hands.

272. The present Government has taken highly important measures to restore the rule of law in the country. It has ratified virtually all relevant international instruments; a Philippine Commission on Human Rights was established with clear tasks in the field of protection and promotion of human rights; educational and training programmes have been set up and in most administrative branches guidelines regarding respect for human rights have been issued. In spite of all these highly commendable measures, serious human rights violations, including torture and inhuman treatment, continue to occur throughout the country. This can only mean that the Government must strengthen its hold on the various executive branches and that the corrective mechanisms must be made more effective. Preventive measures alone are not enough since they lose their credibility if corrective measures are felt to be deficient.

273. It is a tragedy that the 1986 revolution, in spite of high hopes, has not led to greater unity in the country. The nation has remained deeply divided on political and moral issues and the present human rights situation reflects that division. All efforts, therefore, should be given to the process of reconciliation. In this respect it may be worth while to repeat the words of the President of the Senate, Jovito R. Salonga, pronounced during an address delivered on 1 October 1990: "The final objective is not to reach agreement on all substantive issues. It should be enough that agreement is reached on how to resolve disagreements and conflicts. Unanimity is not a pre-condition to unity."

274. In light of the above-mentioned considerations the Special Rapporteur wishes to make a number of recommendations. Before doing so, however, he wishes to point out that several of the proposed measures are already included in legislative instruments pending before Congress. Compliance with such recommendations could therefore be achieved rather easily.

(a) The position of the Philippine Commission on Human Rights should be strengthened, both with regard to its competences and its infrastructure, in order to enable it to carry out its task more effectively. In particular the Commission should be provided with prosecutory powers;

(b) The Commission should review and evaluate its methods of work in order to perform its functions in a more efficient way, thus enhancing its credibility as an independent body that can be accepted by all strata of society as the guarantor of the respect for human rights in the country;

(c) Legislative measures should be adopted to establish a national civilian police force;

(d) Jurisdiction over offences committed by members of the armed forces, including the police, against civilians should be returned to the civil courts; an exception for service-connected offences should be formulated strictly;

(e) Measures should be taken to ensure that visits by lawyers and doctors to persons under detention should be conducted immediately after detention and should be held regularly and without hindrance, intimidation or harassment of the legal and medical personnel who carry out their professional duties;

(f) Measures should be taken to strengthen and make more efficient the protection given to persons wishing to give evidence on cases of torture and other human rights violations, as well as their relatives, against reprisals, harassment and intimidation;

(g) Legislative or administrative measures should be taken to provide victims of human rights violations, including torture and inhuman treatment, with adequate compensation. In the case of victims of torture such measures are called for by article 14 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which the Philippines is a party. A finding of the Philippine Commission on Human Rights or any other competent investigative body that a person has been tortured while under detention should be sufficient for such compensation, irrespective of whether the torturer can be identified;

(h) Persons charged with having practised torture should be brought to trial speedily and, when found guilty, severely punished;

(i) All interrogations of persons who have been deprived of their liberty should be recorded and the names of all persons who were present during such interrogations should be given;

(j) Disciplinary measures should be taken against the officers in command of places of detention where torture has been practised, irrespective of whether the person of the torturer can be identified. The Philippine Commission on Human Rights should be authorized to recommend such disciplinary measures to the competent authorities;

(k) Officials who have violated the rules prohibiting unacknowledged detention or incommunicado detention should be severely disciplined.

B. Follow-up to visits

275. By letters dated 10 August 1990, addressed to the Government of Peru, Guatemala, Honduras and Zaire, the Special Rapporteur requested those Governments to inform him of any measures they may have taken in pursuance of the recommendations made following his visits to their countries (see E/CN.4/1989/15, para. 187, E/CN.4/1990/17, paras. 216 and 254, and E/CN.4/1990/17/Add.1, para. 51, respectively). To date, only the Government of Zaire has sent its observations. By letter dated 1 December 1990 it informed the Special Rapporteur as follows: "During your visit to Zaire at the beginning of this year, you met a number of leading Zairian figures, including the Deputy Prime Minister and the Minister of the Interior, who informed you that Decree-Law No. 1/61 of 25 February 1961, which relates to State security measures and on the basis of which house arrest and internal banishment measures were taken against citizens, was being reconsidered with a view to its amendment or repeal. We take this oppportunity to inform you that the well-known Decree-Law has been repealed by Legal Ordinance No. 90-049 of 12 September 1990".

IV. CONCLUSIONS AND RECOMMENDATIONS

276. After five years as Special Rapporteur on questions relevant to torture one feels inclined to make an assessment of what has been achieved and what still has to be done.

277. One thing is clear from the outset: the intensified campaign of the organized world community against torture, starting with the adoption by the General Assembly in 1975 of the Declaration on the Protection of all Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, has not led to the eradication of that evil. Torture continues apace, as is clear from the present report.

278. This campaign, however, has led to a universal awareness that torture is one of the most heinous violations of human rights because it annihilates man's most essential characteristic: his personality. Although torture was already explicitly prohibited in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, there is now a world-wide legal conviction that the prohibition of torture belongs to the rules of jus cogens, binding for each and every member of the international community, and that this prohibition is unconditional. Torture cannot be justified under any circumstances.

279. This general outlawry of torture is evidently not sufficient to do away with this ignominious practice. The international community has, therefore, taken further steps. A convention was concluded obliging States parties to take measures of a corrective and of a preventive character to make the fight against torture more effective. The early entry into force of the Convention and the rate of ratifications are themselves evidence of the world-wide condemnation of torture. The Commission on Human Rights decided to appoint a Special Rapporteur on Questions Relevant to Torture, whose mandate is to monitor the occurrence of torture throughout the world, to take action with regard to alleged cases of torture which have been brought to his attention and to submit recommendations to the Commission on measures to be taken to strengthen the régime against torture.

280. The international community also adopted a set of instruments, containing guidelines for the treatment of all persons deprived of their liberty and elaborating the provisions of legally binding conventions. The most comprehensive of these instruments is the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment of 1988, on which the Special Rapporteur commented in his fifth report to the Commission.

281. In a more general way the Commission on Human Rights established a programme of advisory services and requested its special rapporteurs to inform Governments of the possibility of availing themselves of the services provided for under the programme. Services which may be provided under the programme include training courses and technical assistance. Governments which feel that they cannot effectively fight the phenomenon of torture on their own can turn to the international community for help and support.

282. Additional mechanisms are under consideration. The Commission will, during its forty-seventh session, discuss the desirability of an Optional Protocol to the Convention against Torture, instituting a system of periodic visits by independent experts to places of detention.

283. Much has been accomplished, but the final aim has not been achieved. Everything seems to be there to make the campaign against torture a successful one and nevertheless all human rights reports speak loudly of failure. All the rules are there but they remain paper formulas instead of living in the minds of men. The mutilated bodies found in ditches along the road and the empty eyes of the living torture victims tell us that the campaign against torture has to be relentlessly continued.

284. What has been accomplished has not been a waste of time and energy. On the contrary, it is the indispensable infrastructure for this continued campaign. The international campaign has now to be implemented on the national level, and the only bodies which can do so in a credible way are those which have endorsed this campaign on the international level, namely Governments.

285. On the national level, Governments are faced with a choice among many priorities. If they are confronted with a vociferous opposition or with an armed insurgency the paramount priority would seem to be the stifling of that opposition and the crushing of the insurgency. The possibility of realizing all other priorities, such as economic development, would seem, in the eyes of the authorities, to be completely dependent upon the realization of that paramount priority. Therefore all other priorities are made subservient to the paramount one. Under such circumstances torture is easily used for the dual purpose of obtaining information and instilling terror. Torture becomes a political tool for the realization of that paramount priority. But, since a Government is not a monolithic entity and policy goals are pursued through various Government branches, we often see the strange situation that one part of Government continues to endorse the campaign against torture on the international level, whereas at home another part practises or condones torture as a political tool. When the Government is confronted with that inconsistency, it usually denies it, since it is impossible to reconcile it or to explain it away.

286. The organized world community should realize that the campaign against torture will completely lose its credibility if this situation is allowed to continue. New rules may be drawn up and new mechanisms may be established but they will be to no avail as long as the glaring discrepancy between behaviour at the international and national levels is tolerated. Governments should realize that it is not impossible but, on the contrary, a compelling necessity to pursue several priorities at the same time. They should learn to profit from history's lesson that internal order ultimately can never - or at best only temporarily - be restored and maintained at the cost of basic human rights. During the past few years we have seen throughout the world the downfall of régimes which had refused to take that lesson to heart. But obviously there still are Governments which think that they will be the exception to the rule.

287. The lesson to be learned is that in the end torture does not pay; that ultimately the tool of torture will turn itself against those who use it; that it is not only illogical but also futile to try to restore or maintain law and order by trampling the law and disturbing order. But as long as this lesson is not yet learned, there is every reason to step up the campaign against torture. The members of the international community should increasingly exert pressure of various kinds upon Governments which allow torture to be used as a political tool. In his first report the Special Rapporteur called torture the plague of the second half of the twentieth century. Precious little time is left for preventing this plague from entering into the twenty-first century.

288. The Special Rapporteur's mandate is aptly called "Questions relevant to torture". Thereby it is implicitly recognized that torture does not start in the interrogation chamber but that the decisive moment is the moment when a person is deprived of his liberty. As of that moment he finds himself in a situation where he eventually may be exposed to torture. It is by no means a coincidence that the International Covenant on Civil and Political Rights which, in its article 7 forbids torture and other cruel, inhuman or degrading treatment or punishment, states, in its article 10, paragraph 1, that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person. Torture is the absolute denial of the inherent dignity of the human person. Violation of article 10, paragraph 1, therefore, may lead to violation of article 7 whereas compliance with article 10, paragraph 1, is the best preventive measure against the violation of article 7.

289. It is, therefore, no matter for suprise that the prohibition of torture is an integral part of a number of documents dealing with the treatment of detained persons in general, such as the Body of Principles for the Protection of all Persons under Any Form of Detention or Imprisonment. In none of these documents do we find an explicit prohibition of incommunicado detention although there are provisions which limit the possibilities of such detention, like the prompt hearing by a judicial or other authority and the prompt notification of a person's arrest to his relatives.

290. Apparently, there is some understanding of the view that for security reasons a person must be held incommunicado for a certain period in order to collect information and evidence which under no circumstances should be allowed to come to the knowledge of his accomplices. Should he have the right to see his counsel or his relatives, vital information might be leaked to the outside world. Such understanding has until now prevented the outright prohibition of incommunicado detention.

291. It should be realized, however, that torture is most frequently practised during incommunicado detention. To that extent, incommunicado detention might be called the torturer's bosom friend. It seems, therefore, worthwhile to see whether there are no other means by which such security considerations might be properly served. Governments sometimes have overriding objections against the detainee seeing his own lawyer since it is suspected that he belongs to the same faction. In such cases use might be made of lawyers placed on a panel by an independent professional organization, like the national Bar Association. Similarly, for as long as a person is not allowed to see his legal counsel or his relatives, a daily medical examination by an independent doctor to be chosen from a list drawn up by a professional medical organization might be prescribed. Such measures would divest the detention of its incommunicado character.

292. It is a well-known fact that the prosecution of torturers is often virtually impossible because during the interrogation session the detainee was blindfolded or hooded and is consequently not able to identify the culprits. Implementation of principles 12 and 23 of the Body of Principles, providing for the recording of all relevant facts at the time of arrest (principle 12) and during an interrogation (principle 23), including the identity of the persons who assisted at the interrogation could effectively terminate this ignominious practice of blindfolding or hooding which - apart from being highly intimidating - is in itself a violation of the duty to respect a detained person's inherent dignity.

293. Another effective measure to prevent torture is to hold the person in charge of a place of detention responsible, if it is proven beyond reasonable doubt that a detainee has been tortured in that particular detention place, even if the identity of the torturers themselves cannot be established. Every person in charge of a detention place should take adequate measures to prevent any occurrence of torture. If torture is nevertheless practised, he obviously has failed in meeting his own responsibility. The Special Rapporteur has been informed that in some countries the taking of disciplinary measures (such as demotion) have been found to be highly effective tools in combating torture.

294. Administrative detention has often been mentioned as a form of detention which may easily lead to torture practices, since many of the guarantees inherent to a criminal procedure are lacking. This is particularly so if administrative detention is not subject to judicial control or cannot be appealed against. In many countries deprivation of liberty is only possible when a person is charged with or convicted for a criminal offence; administrative detention, consequently, is not allowed. In other countries deprivation of liberty is lawful if a person is considered a risk to society or to certain interests of the State without him having committed a criminal offence. In this context it deserves mentioning that the Body of Principles is applicable to all forms of detention or imprisonment. Persons under administrative detention are, therefore, entitled to the same degree of protection as persons who are suspected of or are found guilty of having committed criminal offences.

295. The idea of the institution of a system of periodic visits by independent experts to places of detention or imprisonment was proposed to the Commission a long time ago. On 6 March 1980, the Government of Costa Rica submitted to the Commission on Human Rights a draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment - which at the time was still under consideration - which provided for a system of periodic visits.

296. At that time it was decided to give priority to the conclusion of the Convention. Consequently, discussion of the draft optional protocol was deferred. When, in December 1984, the Convention against Torture was adopted, this same idea of a system of periodic visits was taken up in the context of the Council of Europe. In resolution 1986/56 the Commission on Human Rights recommended, in view of this development, that other interested regions where a consensus existed should consider the possibility of preparing draft conventions based on the concept of a system of visits. It was decided to defer consideration of the draft optional protocol until the forty-fifth session in 1989. On 6 March 1989 the Commission decided to further defer

consideration of the draft optional protocol to its forty-seventh session since it thought it advisable to take note, on the one hand, of the experience of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, which had entered into force on 1 February 1988, and, on the other hand, of the work being carried out in other regions designed to establish regional systems of visits to places of detention (decision 1989/104).

297. The Commission will therefore resume consideration of the draft optional protocol at its present session. The Special Rapporteur has been informed that the first report of the Committee established under the European Convention will be published in the beginning of 1991. The Special Rapporteur has also been informed that in other regions no steps have been taken to establish similar regional systems of visits.

298. As the Special Rapporteur said in previous reports, such systems of periodic visits must be deemed to be one of the most effective preventive measures against torture. As a result of such visits by a committee of experts Governments may be advised on measures to be taken to improve the existing régime in places of detention or imprisonment. The element of periodicity is designed to strengthen its preventive effect and to emphasize its character as a form of co-operation with the Government concerned, which is also underlined by the confidentiality of the reporting system. Although the institution of such systems of visits on the national level must be welcomed and consequently has been recommended by the Special Rapporteur, the preventive effects of an international system will be incomparably stronger.

299. As the Special Rapporteur stated in his second report (E/CN.4/1987/13, para. 85), such a system of visits is no more an intrusion in the domestic jurisdiction of a State than the visits of staff members of the International Atomic Energy Agency to nuclear facilities which may also lead to recommendations for the improvement of existing standards. Just as in the latter case such visits have been accepted since they serve a purpose which is recognized by the international community as being of vital importance, namely the maintenance of international peace and security, a system of visits to places of detention would serve the purpose of ensuring respect for human dignity, a value deemed by the international community of equivalent importance.

300. The introduction of a system, as provided for by the draft optional protocol, would to a certain extent be the final stone in the edifice which the United Nations has built in their campaign against torture. It would also reflect the three-tiered system of activities of the United Nations in the field of human rights. First, torture was explicitly prohibited, (standard-setting). Secondly, a convention was concluded to strengthen the standard. The Parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment have committed themselves to take measures on the national level which will enable them better to implement the norm (implementation). Adoption of the draft optional protocol would constitute an illustration of the most recent branch of United Nations activities: co-operation between individual Governments and the international community for the promotion of the respect for human rights (Advisory Services).

301. Persons who allege that they have been subjected to torture often contend that the complaints they have filed are not handled in a serious manner by the authority competent to carry out the investigation. Others hesitate to file a complaint or refrain from doing so, because the complaint has to be filed with the same authority which formally was responsible for the investigation during which the torture was practised, usually the prosecutor's office. Governments should, therefore, consider the possibility of establishing independent authorities with investigatory and/or prosecutory powers where complaints about torture can be brought.

302. Since the moment of arrest and the first days of detention form the most crucial period in the combat against torture, it is of utmost importance that law enforcement personnel and other persons involved learn to recognize and respect the inherent dignity of those who are committed to their trust. Training courses and educational programmes remain therefore of the highest significance in any credible campaign for the eradication of torture. The international community has provided excellent documents which serve this purpose. The Body of Principles and related instruments should be obligatory material for all such programmes.

303. In conclusion the Special Rapporteur wishes to make the following recommendations, many of which can also be found in his previous reports:

(a) States which have not yet done so, should ratify as soon as possible the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(b) Since incommunicado detention is highly conducive to torture practices it should be declared illegal. A person found to be in incommunicado detention should be released without delay;

(c) Interrogation of detained persons should only take place at official interrogation centres. All interrogations should be duly recorded in conformity with principle 23 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. Evidence obtained from a detained person in non-official interrogation centres should not be admitted as evidence in court, unless confirmed by him during interrogation at official locations. The blindfolding or hooding of detainees during interrogation should be absolutely forbidden;

(d) Places of detention should be regularly inspected by independent experts. The institution of a treaty-based system of periodic visits to places of detention would be a highly effective preventive measure against the occurrence of torture and should therefore be seriously considered;

(e) Complaints about torture should be dealt with immediately and should be investigated by an independent authority which has no relation to the authority that investigated the offence which the detainee was suspected of having committed. In this context the establishment of the post of an ombudsman type authority or an independent commission on human rights with investigative and/or prosecutory powers may be recommended;

(f) Whenever a torture complaint is found justified, the victim should be provided with compensation without delay;

(g) Whenever a torture complaint is found justified, the perpetrators should be severely punished. If the torture is found to have taken place in an official place of detention the official in charge of this location should be disciplined or punished;

(h) Since the Special Rapporteur continues to receive information that members of the medical profession play a role in the practice of torture, he wishes to reiterate his previous recommendation that professional medical associations take strict measures against such persons who have dishonoured their profession;

(i) Each detained person should have the right to initiate, immediately after his arrest, proceedings before a court on the lawfulness of his detention, in conformity with article 9, paragraph 4 of the International Covenant on Civil and Political Rights. Since the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, which in principle 32 contains the same provision, makes no exception for times of emergency, a detained person should be entitled to exercise this right also under a state of siege or emergency;

(j) Training programmes for law enforcement and security personnel should reflect the respect due to the inherent dignity of all detained persons. In particular, such personnel should be instructed on their duty to disobey orders received from a superior to practise torture;

(k) Governments are reminded that they can avail themselves of the programme of advisory services of the United Nations Centre for Human Rights in combating torture.